LAWS

OF THE

TERRITORY OF HAWAII

PASSED BY THE

TWENTY-FOURTH LEGISLATURE

REGULAR SESSION
1947

Convened on Wednesday, the Nineteenth Day of February, and
Adjourned Sine Die on Saturday, the Third Day of May

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FOREWORD

§§ 2-3, REVISED LAWS OF HAWAII 1945, PROVIDE AS FOLLOWS:

"Sec. 2. **Laws published by secretary.** The secretary of the Territory shall promulgate all the laws enacted by the legislature, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, by publishing the same once in the English language in a newspaper of general circulation published daily in Honolulu in the English language. Any of such excepted acts may, however, be published when the governor so directs. After such publication, the secretary shall cause the same, together with all other laws duly enacted at any session of the legislature, to be printed, indexed and bound in book form. The index to any volume of the laws enacted at any regular session shall be cumulative and shall include an index of all laws enacted at every preceding regular or special session of the legislature since the publication of the last revision of the laws of the Territory. Before publishing any act in book form, the secretary is directed to conform the style thereof as near as may be with that of the latest revision of the statute law of the Territory. He is directed, before publishing them in book form, to classify all acts by serial letters or numbers or both and to insert appropriate supplementary chapter and section numbers and headnotes together with section histories, wherever necessary to aid in placing amendments or new sections or chapters in an appropriate supplementary sequence with the latest revision of the laws; and such amendments, new sections and new chapters may be cited by reference to such supplementary chapter and section numbers of such latest revision."

"Sec. 3. **Certain acts not obligatory until published.** No written law, unless otherwise specifically provided by legislative enactment, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, shall be obligatory without first being printed and made public. General or special appropriation acts, loan fund acts, pension acts and franchise acts, whether affecting territorial funds or the funds of county or other municipal subdivisions or commissions, shall become operative according to their respective terms merely by being passed and approved in the manner provided by sections 44 to 54, inclusive, of the Organic Act without the necessity of any other promulgation than the ultimate inclusion thereof in the bound volume of respective session laws as provided in section 69 of the Organic Act."

§§ 2-3, JOINT RESOLUTION NO. 4, 1945, PROVIDE AS FOLLOWS:

"Section 2. That the secretary of the Territory be and he is hereby authorized, in complying with the provisions of section 2 of said Revised Laws, before publishing any Act in book form, to change or correct any chapter or section numbers contained as a part of or referred to in any such Act, whenever necessary to carry out the intent of said section 2. Such changes shall be made on the engrossed copy of each such Act and shall be initiated by the secretary thereon."

"Section 3. That any Act of the legislature may be cited by reference to the chapter and section numbers as inserted or added or changed by the secretary of Hawaii pursuant to the provisions of said section 2 and the provisions of this resolution as the same are set forth in the printed volume of the laws enacted at any regular session of the legislature, published in book form by said secretary pursuant to the provisions of said section 2 and of this resolution."

THE LATEST REVISION OF THE STATUTE LAW WAS ENACTED IN 1945 BY ACT 1, SERIES A-1, AND IS PUBLISHED IN A VOLUME ENTITLED "REVISED LAWS OF HAWAII 1945."

(The valuable assistance of Hon. A. M. Cristy in the compilation of the material in this volume is acknowledged.)

CERTIFICATE

Territory of Hawaii

Office of the Secretary

I, Oren E. Long, Secretary of the Territory of Hawaii, do hereby certify that the printed Acts and Joint Resolutions set forth herein are, except as otherwise specifically noted, true and correct copies of the original Acts and Resolutions enacted by the Twenty-fourth Legislature of the Territory of Hawaii at its regular session of 1947, which was convened in Honolulu on Wednesday, the nineteenth day of February, 1947, and adjourned sine die on Saturday, the third day of May, 1947; that all such Acts and Resolutions, except as otherwise specifically noted, were approved by the Governor of Hawaii in accordance with the provisions of the Organic Act.

I further certify that the classification of such Acts and Resolutions and the addition of supplementary chapter and section numbers and headnotes, section histories and footnotes has been done under my direction pursuant to applicable provisions of law.

I further certify that all of such Acts and Resolutions required to be promulgated by publication have been duly published in accordance with law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the Territory of Hawaii on the 30th day of September, 1947.



Oren E. Long

Oren E. Long
Secretary of Hawaii

133633

CHIEF EXECUTIVE AND OFFICERS AND MEMBERS OF THE TWENTY-FOURTH LEGISLATURE OF THE TERRITORY OF HAWAII

REGULAR SESSION OF 1947

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Clerk.....Ellen D. Smythe, Honolulu, Oahu

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D—Democrat 7
R—Republican 8
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D—Democrat 15
R—Republican 15

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Am. to S.L. 1921: (1921) c. 186: '47:E-192, c.133

Am. to S.L. 1929: (1929) c. 243: '47:E-196, c.48

Am. to S.L. 1931: (1931) c. 122: '47:E-196, c.48

Am. to S.L. 1935:
'35:E-182, c. 203: '47:E-196, c.48
'35:E-215, c. 116: '47:E-192, c.133

Am. to S.L. 1937:
'37:E-177, c. 247: '47:E-196, c.48
'37:E-237, c. 186: '47:E-194, c.42

Am. to S.L. 1939:
'39:B-77, c. 26: '47:F-220, c.184
'39:E-224, c. 42: '47:F-238, c.232

Abbreviated List: Sections of R.L. 1945: AMENDED, Added, [Repealed]. Partial Am. = light face. **TOTAL AM. = Blackface.** *NEW = Italics.* Repeal = [ ].

Am. to S.L. 1941:
'41: E-266, c. 199:
'45: F-249, c.276
'41: E-296, c. 113:
'45: F-270, c.70
'47: E-205, c. 5
'41: E-302, c. 187:
'47: F-247, c.24
'41: E-320, c. 251:
'45: F-271, c.61
'47: E-195, c.41
'41: E-321, c. 274:
'45: F-272, c.167

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'41: A-1, c. 24:
'47: J.R. 4
'41: A-15, c. 29:
'45: F-273, c.230
'41: E-66, c. 14:
'45: F-274, c.16
'41: E-85, c. 54:
'45: F-273, c.230

Am. to S.L. 1943:
'43: A-3, c. 96:
'47: J.R. 4
'43: E-176, c. 191:
'45: F-252, c.51
'43: E-180, c. 74:
'47: F-220, c.184
'43: E-184, c. 168:
'45: E-219, c.87
'43: E-196, c. 8:
'45: F-275, c.47
'43: E-213, c. 230:
'45: F-276, c.259
'47: F-228, c.45
'47: F-226, c.227
'43: J.R. 10:
'45: F-277, c.180

Am. to S.L. 1945:
'45: A-4, c. 263:
'47: A-4, c.208
'47: F-225, c.17
'45: A-5, c. 244:
'47: A-6, c.156
'47: A-7, c.154
'45: A-19, c. 73:
'47: A-22, c.140
'45: A-29, c. 252:
'47: A-35, c.195
'45: A-42, c. 116:
'47: A-52, c.192
'45: A-49, c. 171:
'47: A-51, c.165
'45: A-52, c. 102:
'47: A-54, c.55
'45: A-54, c. 103:
'47: A-57, c.240
'45: A-66, c. 9:
'47: A-61, c.49
'45: A-69, c. 19:
'47: A-63, act 75
'45: A-73, c. 10:
'47: A-66, c.81
'45: A-74, c. 160:
'47: A-67, c.169
'45: A-77, c. 123:
'47: A-68, c.107
'45: A-80, c. 161:
'47: A-70, c.22
'45: A-81, c. 113:
'47: A-71, c.108
'45: A-82, c. 125:
'47: A-71, c.108
'45: A-84, c. 181:
'47: A-75, c.32
'45: A-85, c. 182:
'47: A-75, c.32
'45: A-87, c. 82:
'47: A-81, c.111
'47: A-82, c. 36
'47: A-75, c. 32
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'47: A-92, c.244
'45: A-114, c. 133:
'47: A-93, c.167
'45: B-120, c. 33:
'47: B-99, c.10
'45: B-122, c. 264:
'47: B-104, c.153
'45: B-135, c. 138:
'47: B-123, c.234
'45: B-136, c. 7:
'47: B-124, c.217
'45: B-137, c. 237:
'47: B-128, c.120
'45: C-149, c. 240:
'47: C-141, c.89
'45: D-154, c. 142:
'47: D-178, c.230
'45: D-156, c. 80:
'47: D-155, c.173
'45: D-194, c. 40:
'47: D-175, c.47
'45: D-195, c. 177:
'47: D-176, c.57
'45: D-196, c. 4:
'47: D-177, c.56
'45: D-201, c. 273:
'47: D-170, c.98
'45: D-208, c. 53:
'47: D-188, c.86
'45: E-211, c. 150:
'47: D-174, c.9
'45: E-212, c. 275:
'47: F-226, c.227
'45: E-220, c. 8:
'47: A-81, c.111
'47: A-68, c.107
'47: A-96, c.243
'45: F-230, c. 272:
'47: F-219, c.2
'45: F-234, c. 175:
'47: E-198, c.34
'45: F-238, c. 72:
'47: F-233, c.219
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'47: J.R. 13
'45: F-242, c. 277:
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'47: F-228, c.45

1947

LAWS OF THE TERRITORY OF HAWAII

PASSED AT THE

TWENTY-FOURTH REGULAR SESSION OF THE LEGISLATURE.

Acts arranged in sequence with Parts A-E of the Revised Laws of Hawaii 1945; all additions, notes and brackets [ ] added by the Secretary of Hawaii under authority of R. L. 1945, s. 2 and of L. 1945, J. R. 4.

Title 1: GENERAL LAWS.

Chapter 1. COMMON LAW, STATUTES AND DEPOSITARIES.

Series A-1: ACT 161

An Act Relating to Hawaiian Standard Time.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 20.01.**] Section 1. [**Standard time.**] Hawaiian standard time is hereby established as ten hours slower than Greenwich time, based on the mean astronomical time of the one hundred and fiftieth degree of longitude west from Greenwich. [L. 1947, c. 161, s. 1.]

[**Sec. 20.02.**] Section 2. [**Standard time applies in all laws, etc.**] In all statutes, ordinances, rules, regulations, and orders relating to the time of performance of any act by any territorial or county officer or agency, whether in the legislative, executive, or judicial branches of the government, or relating to the time within which any rights shall accrue or determine, or within which any act shall or shall not, may or may not, be performed by any person subject to the jurisdiction of the Territory, it shall be understood and intended that the time shall be Hawaiian Standard Time. [L. 1947, c. 161, s. 2.]

Section 3. This Act shall take effect in the manner provided in this section, that is, on the second Sunday of June, 1947, time pieces shall be advanced one-half hour at 2 o'clock A. M. of the present time, so as to show 2:30 o'clock A. M. of the Hawaiian Standard Time adopted by this Act.

(Approved May 19, 1947.) **H.B. 312, Act 161.**

Chapter 2. CIVIL SERVICE LAW.

Series A-2: ACT 110

An Act Amending Chapter 2, Revised Laws of Hawaii 1945, Relating to Civil Service by Providing for Uniform Interpretation of the Provisions of said Chapter 2.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 2, Revised Laws of Hawaii 1945, is hereby amended by adding thereto a new section to be numbered 66.01 to read as follows:

"**Sec. 66.01. Uniform interpretation of civil service laws.** All questions requiring the construction or interpretation of any of the provisions of this chapter shall be submitted to the attorney general of the Territory for his opinion. It shall be the duty of the attorney general to render his opinion upon such questions, when such opinion is requested by the head of any department of the territorial government or the government of any of the several counties." [L. 1947, c. 110, s. 1.]

Section 2. This Act shall take effect upon its approval. (Approved May 14, 1947.) **H.B. 875, Act 110.**

Series A-3: ACT 119

An Act Providing a Preference for Veterans and Others Under Chapter 2, Amending Section 80 and Adding Section 81, of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 80** of chapter 2 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the second paragraph thereof.*

Section 2. There is hereby enacted a new section of chapter 2 of the Revised Laws of Hawaii 1945, to be numbered section 81 and to read as follows:

"**Sec. 81. Veteran's preference.** (a) As used in this section:

'Veteran' means any person who has served during any period when the United States was at war, in any branch of the United States military or naval establishment and been honorably separated therefrom or honorably discharged from active service and placed in reserve;

'Disabled veteran' means any veteran who has suffered any service-incurred physical disability as certified to at the time of said examination by the Veterans Administration of the United States; and

'Deceased serviceman' means any veteran or disabled veteran who has deceased, or any person who would have been a veteran or disabled veteran except for the fact that he deceased before separation or discharge from the branch of the United States military or naval establishment in which he was serving at the time of his decease.

(b) In each original and open competitive examination, but not in any promotional examination, entry to which is confined to persons already employed in the particular civil service system, given pursuant to this chapter, the following credits shall be given to the following persons:

1. To each candidate who is a veteran, (other than a disabled veteran) a credit of five per cent of the total credits specified for such examination;

2. To each candidate who is a disabled veteran, a credit of ten per cent of the total credits specified for such examination; and

3. To each candidate who is the wife of a disabled veteran neither in government service nor a candidate, or who is the widow of a deceased serviceman (providing she shall not have remarried), a credit of ten per cent of the total credits specified for such examination.

The credits provided for herein shall be added to the credits attained in examination and the total of such sum shall be used in qualifying the candidate for a place on the list of eligibles, which shall rank the eligibles according to total credits." [L. 1947, c. 119, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 15, Act 119.**

* Note: As so amended, § 80 reads:

Sec. 80. Membership in any association or other organization of public employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, by any person in the civil service, or the presenting by any such person or groups of persons of any grievance or proposal to the legislature or any public officer or body shall not constitute or be cause for reduction in rank or compensation or removal from said service. The right of persons employed in the civil service of the Territory or any political subdivision thereof, either individually or collectively, to petition the legislature, or any member thereof, or to furnish information to either House of the Legislature or to any committee or member thereof, shall not be denied or interfered with. Further, no person in said service shall be required as a condition of employment or promotion to be a member of any association or organization. [L. 1939, c. 187, s. 20; R. L. 1945, s. 80; am. L. 1947, c. 119, s. 1.]

Chapter 3. CLASSIFICATION LAW.

Series A-4: ACT 208

An Act Amending Act 263 of the Session Laws of Hawaii 1945, Providing for Permanent Increases in the Base Pay Rates of Compensaton of Public Officers and Employees and for an Additional Bonus for the Biennium 1947-1949, and Making Certain Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 125.05.] Section 1. Definitions. As used in this Act, unless otherwise indicated by the context:

(a) "Position" or "public position" includes any office or position in the service of the Territory or any county or of any independent board, commission or other agency thereof, including the university of Hawaii.

(b) "Employees" includes the holder of any position.

(c) Where full-time rates are mentioned, the rates for part-time positions not expressly excepted shall be adjusted proportionately. [L. 1947, c. 208, s. 1.]

[Sec. 125.06. Increases in base pay rates.]

Section 2. (a) The full-time base pay rates for all public positions which were, or may be, established by or pursuant to section 1 of Act 263 [series A-4] of the Session Laws of Hawaii 1945, including, without limitation of the generality of the foregoing language, those heretofore specially adjusted by executive order of the governor, are hereby further increased by the addition to each such base pay rate of the sum of forty-five dollars per month, effective July 1, 1947, until otherwise provided by law.

(b) The full-time base pay rates of all teachers or other employees which were or may be established by or pursuant to section 2 of said Act 263 [series A-4], are likewise further increased by the addition to each such base pay rate of the sum of forty-five dollars per month, effective July 1, 1947, until otherwise provided by law.

(c) The base pay rates for any other public positions, whether established pursuant to the provisions of said Act 263 [series A-4] or otherwise, are likewise increased by the addition to each such base pay rate of such amount as was being paid or was or is required to be paid for such office or position prior to July 1, 1947, as and for a bonus under or pursuant to said Act 263.

(d) It is the intent of this Act to establish the aforesaid additions as a permanent portion of the base pay for each such position. It is provided, however: (1) that nothing in this Act contained shall be deemed to nullify any of the adjustments of salary increments and other adjustments made by the governor by the governor's executive orders of June 30, 1945, July 14, 1945, July 30, 1945, September 28, 1945, August 3, 1946 and November 7, 1946, and other similar adjustments heretofore made pursuant to the laws of the Territory and the Hawaii Defense Act rules mentioned in said Act 263;

(2) That, in the event the base pay for any position or group or class of positions is specifically increased or expressly fixed by any other act enacted at the regular session of 1947 of this legislature, then, unless otherwise expressly provided in such other act, the base pay for such position or group or class of positions shall not be increased under section 1 of this Act, except in such amount, if any is required, as shall be sufficient to grant to the employee the same base pay increase which he would have received under this Act, if such other act had not been enacted; and

(3) That nothing in this Act contained shall be deemed to prohibit the making of further equitable adjustments in base pay by the governor pursuant to said Act 263 for district magistrates in cases where provision may be made by any other act enacted at said regular session for the appointment of one magistrate for more than one district without specifically fixing the salary for such combined districts. [L. 1947, c. 208, s. 2.]

[**Biennium 1947-1949 bonuses; governor's discretion.**]

Section 3. Whenever, during the biennium 1947-1949, the governor shall find that the finances of the Territory warrant such action as to Territorial employees, the governor may order bonuses to be paid under this section to all public employees as defined in section 1 of this Act. Such bonuses shall be uniform for the following respective classes, and the maximum bonus for full time for each of said respective classes which may be authorized under this section shall be as follows: (1) For teachers and others covered by subsection (b) of section 2 of this Act, and for members of the faculty of the university of Hawaii, as defined by subsection (5) of section 105 of the Revised Laws of Hawaii 1945, a uniform maximum amount of forty-eight dollars each (hereinafter called the "teachers' bonus"); and

(2) For all other public employees as defined by section 1 of this Act, a uniform maximum amount of twenty-five dollars per month each (hereinafter called the "general employees'

bonus"). If the governor so orders the payment of bonuses of less than the maximums aforesaid, such order shall provide for a proportional reduction by a uniform percentage of the maximum teachers' bonus and of the maximum general employees' bonus, so as to preserve the ratio of 48 to 25 for said respective classes established by said maximums.

If a bonus order is so made by the governor, then the provisions of section 5 of said Act 263, except as otherwise provided by this Act, shall apply to such bonuses, except the appropriations made by said section, and such bonuses shall be payable commencing on the first day of the month in which such order is made or on such later date as shall be fixed in such order. After any such bonuses shall be granted, the governor may, pursuant to said Act 263, either eliminate, or increase or decrease by a uniform percentage, all such bonuses from time to time by order uniformly applicable to all classes of employees, except that the bonuses shall not exceed the maximums fixed by this section and shall not be continued beyond June 30, 1949.

Note: This section not applicable to certain county officers, see **L. 1947,** c. 209, (B-107) post.

Section 4. Notwithstanding any other provision of this Act to the contrary, where no base pay increase was paid prior to July 1, 1947 under or pursuant to said Act 263 for a particular class or type of position, no base pay increase shall be payable under this Act for such class or type of position, and where no bonus was paid prior to July 1, 1947 under or pursuant to said Act 263 for a particular class or type of position, no bonus shall be payable under this Act for such class or type of position; **provided** that this section shall not be construed to exclude any new position created or filled after June 30, 1947, which, if created and filled prior to July 1, 1947, would have been entitled to the benefits of said Act 263.

[**Certain Defense Act Rules continued.**]

Section 5. For the purpose of more fully effectuating the provisions of this Act, the provisions of Hawaii **Defense Act Rules Nos. 88, 107, 113** and **114,** not obviously inapplicable and not inconsistent wth this Act, are continued in effect after June 30, 1947, notwithstanding any provision therein to the contrary, and notwithstanding that chapter 324, Revised Laws of Hawaii 1945, may cease to be in effect by its terms or may be repealed.

Section 6. Notwithstanding any provision of this Act to the contrary, the total compensation, including increments, for any

position covered by this Act, shall not be reduced by this Act below the total payable under laws and regulations existing prior to the effective date of this Act.

Section 7. For the purpose of carrying out the requirements of this Act, there is hereby appropriated out of the general revenues of the Territory for the period from July 1, 1947 to June 30, 1949, the sum of $6,093,713.00 for the bonus payments for territorial employees granted by section 3 of this Act, to be allocated by the director of the bureau of the budget to each department from time to time as required.

Section 8. All laws or parts of laws inconsistent with this Act are hereby amended to conform to this Act. Any special appropriation for any specific position (including office) made in the general appropriation act for the biennium 1947 to 1949 shall not be deemed to affect the compensation for such position fixed under any classification or other salary schedule prescribed by this Act and applicable to such position, nor shall it be construed to prevent payment of any higher rate of compensation which may be determined by or pursuant to this Act for such position.

Section 9. This Act may be cited as the Public Salary and Bonus Law of 1947.

Section 10. This Act shall take effect on July 1, 1947.
(Approved May 21, 1947.) **H.B. 132, Act 208.**

Note: See J. R. 12, post, commission to study classification.

Chapter 6. ELECTIONS: GENERAL.

Series A-5: ACT 151

An Act Relating to the Registration of Voters, and Amending Section 178 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 178** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof, the following paragraph:

"The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section." [R. L. 1945, s. 178; am. L. 1947, c. 151, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1947.) **S.B. 161, Act 151.**

Series A-6: ACT 156

An Act to Amend Section 195 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Appointment of the Election Inspectors and Clerks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 195** of the Revised Laws of Hawaii 1945, as amended by Act 244 (Series A-5) of the Session Laws of Hawaii 1945, is hereby amended by amending the first sentence thereof to read as follows:

"There shall be not less than three nor more than five inspectors of election for each precinct; **provided,** however, that in precincts in which there are more than eight hundred registered voters and where a voting machine is not used, there shall be not less than six nor more than ten inspectors of election and clerks for such precincts, one-half of whom shall perform the duties of inspectors of election and clerks while the polls are open for voting and the other half shall perform the duties of inspectors of election and clerks immediately after the polls are closed as provided by law; **provided** further, that there shall be a chairman on each set of inspectors of election, and each set of inspectors shall be authorized and empowered to employ two clerks to assist in the work of the inspectors of election, including the counting of the ballots any law to the contrary notwithstanding."

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1947.) **S.B. 270, Act 156.**

Note: As amended by L. 1945 and L. 1947, § 195 now reads:

Sec. 195. Number, appointment, vacancies. There shall be not less than three nor more than five inspectors of election for each precinct; **provided,** however, that in precincts in which there are more than eight hundred registered voters and where a voting machine is not used, there shall be not less than six nor more than ten inspectors of election and clerks for such precincts, one-half of whom shall perform the duties of inspectors of election and clerks while the polls are open for voting and the other half shall perform the duties of inspectors of election and clerks immediately after the polls are closed as provided by law; **provided** further, that there shall be a chairman on each set of inspectors of election, and each set of inspectors shall be authorized and empowered to employ two clerks to assist in the work of the inspectors of election, including the counting of the ballots any law to the contrary notwithstanding. They shall be appointed by the governor, as far as reasonably practicable, from the opposing parties, and shall be registered voters of the precinct in which they serve.

In case of inability, failure or refusal of any person so appointed to act as such inspector, the governor shall, so far as reasonably practicable, appoint a person to fill such vacancy from the same party that such person so failing to act belonged to; **provided,** however, that if it is impossible to communicate with the governor in time for him to make such appointment before the election is held, the remaining inspector or inspectors shall appoint a person or persons to fill such vacancy. [C. L. p. 809, s. 70; am. Org. Act, s. 64; R. L. 1935, s. 7664; am. L. 1943, c. 129, s. 1; R. L. 1945, s. 195; am. L. 1945, c. 244, s. 1; am. L. 1947, c. 156, s. 1; am. L. 1947, c. 154, s. 1.]

Series A-7: ACT 154

An Act to Amend Section 195 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Appointment of the Election Inspectors.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 195** of the Revised Laws of Hawaii 1945, as amended by Act 244 (Series A-5) of the Session Laws of Hawaii 1945, is hereby further amended by substituting a period for the semicolon after the word "vacancy" in line 11 of said section and by deleting the portion of said section following said punctuation.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 267, Act 154.**

See note to preceding act 156 (A-6).

Note: § 197 was amended L. 1945, c. 81 (A-6), c. 244 (A-5).

Series A-8: ACT 159

An Act to Amend Chapter 6 of the Revised Laws of Hawaii 1945, as Amended, Relating to Elections.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 6 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending the third paragraph of **section 217** thereof to read as follows:

"A card of instruction detailing the method of marking ballots and of voting shall be immediately posted at or in each voting shelf or compartment herein provided for; and not less than three such cards shall be immediately posted in conspicuous places outside the polling room."

Note: §§ 225 and 229.01 see following acts.

(b) By amending section 249 thereof to read as follows:

[**Sec. 249. Election expenses, statement.**] "Within twenty days following any election, each candidate for a territorial office and each agent or committee acting for or on behalf of any such candidate shall file with the secretary of the Territory, and each candidate for a county office and each agent or committee acting for or on behalf of any such candidate shall file with the clerk of the county, an itemized statement of his or their expenses, by, for, or on behalf of the candidate for election, showing each amount expended, the purpose or object for which each expenditure was made, and the person or persons to whom made. Such statements shall be sworn to by each person making the expenditures and shall be open to public inspection." [C. L. p. 806, s. 59; am. Org. Act, s. 64; R. L. 1945, s. 249; am. L. 1947, c. 159, s. 1 (b).]

(c) By amending section 250 thereof to read as follows:

[**Sec. 250. No expenses, statement.**] "If a candidate or any agent or committee acting on his behalf has, or have, incurred no expenses on account of the election, he and they shall file within twenty days after election, either with the secretary of Hawaii or the county clerk as specified in section 249, a sworn statement setting forth the fact." [C. L. p. 806, s. 60; am. Org. Act, s. 64; R. L. 1945, s. 250; am. L. 1947, c. 159, s. 1 (c).]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 470, Act 159.**

Note: As so amended, § 217 reads:

Sec. 217. Procedure upon opening polls. At the opening of the polls for election, the chairman of the inspectors shall, in presence of the bystanders, publicly open the ballot boxes and expose them to all persons present, that it may be seen that they are empty. They shall then be closed and locked and on no account opened till the polls are closed.

At the opening of the polls the seals of the packages of ballots shall be publicly broken and the packages opened by the chairman.

A card of instruction detailing the method of marking ballots and of voting shall be immediately posted at or in each voting shelf or compartment herein provided for; and not less than three such cards shall be immediately posted in conspicuous places outside the polling room. [C. L. p. 813, s. 81; R. L. 1925, s. 109; R. L. 1935, s. 7685; R. L. 1945, s. 217; am. L. 1947, c. 159, s. 1.]

Series A-9: ACT 155

An Act to Amend Section 225 of the Revised Laws of Hawaii 1945, Relating to Assistance to Disabled Voters.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 225 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 225. Assistance of disabled voter.** Any voter who, by reason of blindness or other physical disability, is unable to mark his ballot, shall, if he so requests, receive the assistance of one of the inspectors whom such voter may select, or of any qualified voter whom he may designate, in the marking thereof. Before rendering such assistance or permitting such assistance to be rendered, the inspectors shall be satisfied that such physical disability exists." [C. L. p. 819, s. 103; R. L. 1925, s. 117; am. L. 1929, c. 177, s. 14; R. L. 1945, s. 225; am. L. 1947, c. 155, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 268, Act 155.**

Note: § 227 was amended L. 1945, c. 99 (A-7).

Series A-10: ACT 242

An Act to Provide for Voting by Qualified Voters Who Are Confined to Their Homes by Reason of Illness or Physical Disability, Amending Chapter 6 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 6, of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be numbered section 229.01 and to read as follows:

"**Sec. 229.01. Persons confined to their homes by illness or physical disability.** Any registered voter qualified to vote at any general, primary or special election who is confined to his home by reason of such illness or physical disability as will prevent him from attending the polls, shall be entitled and enabled to vote in such manner as may be prescribed by rules and regulations which shall be promulgated by the secretary of the Territory with the advice of the clerks of the several counties and with the approval

of the governor. Such rules and regulations shall provide for voting by such persons in such manner as to insure secrecy of ballot and to preclude tampering with the ballots of such voters and other election frauds; **provided,** however, that any voter who by reason of physical disability is unable to mark his ballots shall be authorized to receive assistance in the marking thereof. Such rules and regulations may require affidavits, certificates and other written statements under oath. They shall be adopted in conformity with the provisions of section 466 and be published by the secretary of the Territory in a newspaper of general circulation in the Territory and upon such publication the same shall have the force and effect of law." [L. 1947, c. 242, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 26, 1947.) **S.B. 489, Act 242.**

Note: § 247 was amended L. 1945, c. 81 (A-6). §§ 249, 250, amended L. 1947, c. 159 (A-8) ante.

Chapter 7. ELECTIONS: PRIMARY.

Series A-11: ACT 152

An Act Relating to Nomination Papers and Amending Section 265 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 265** of the Revised Laws of Hawaii 1945, is hereby amended by substituting a period in place of the semicolon after the word "candidate" in line four in the last paragraph of said section, and deleting that portion of the last three lines therefrom which begins with the word "provided".

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1947.) **S.B. 164, Act 152.**

Note: The last paragraph of § 265, as so amended, reads:

Nomination papers for candidates for either branch of the legislature and for county office shall be signed by not less than fifteen qualified electors of the district or county or subdivision thereof for which the person nominated is a candidate. [L. 1913, c. 151, s. 5; am. L. 1919, c. 98, s. 1; R. L. 1925, s. 36; R. L. 1935, s. 7724; am. L. 1935, c. 54, s. 1; R. L. 1945, s. 265; am. L. 1947, c. 152, s. 1.]

Chapter 8. EMINENT DOMAIN.

Series A-12: ACT 200

An Act Amending Chapter 8 and Section 1212 of the Revised Laws of Hawaii 1945, Relating to Eminent Domain.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 8 of the Revised Laws of Hawaii 1945 is amended in the following respects:

(a) By amending **section 306** by adding at the end thereof the following sentence:

"The court shall have power on its own motion or on motion of any party to try and determine any issue in the case in advance of other issues."

Note: See rewritten section in the note at end of this act.

(b) By amending **section 309** as follows:

(1) By changing the first sentence to read as follows:

"The attorney general of the Territory may, at the request of the head of any department of the Territory, or as otherwise provided by law, institute proceedings on behalf of the Territory for the condemnation of property as provided for in this chapter."

(2) By changing the last sentence to read as follows:

"In this chapter plaintiff shall be deemed to refer to the Territory or to any county."

Note: See rewritten section in the note at end of this act.

(c) By amending **section 314** by changing that portion of it which precedes the first semicolon to read as follows:

"In fixing the compensation or damages to be paid for the condemnation of any property, the value of the property sought to be condemned with all improvements thereon shall be assessed, and if any of the improvements are separately owned, the value thereof shall be separately assessed;".

Note: See rewritten section in the note at end of this act.

(d) By amending **section 319** by changing paragraphs numbered 1 to read as follows:

"At any time after the commencement of an action pursuant to this chapter, the plaintiff may file a motion for an order of possession supported by an affidavit alleging, or by oral evidence prima facie showing (a) the right of the plaintiff to maintain the action, (b) the public use for which the real property sought to be condemned is being taken, and (c) the sum of money estimated by the plaintiff to be just compensation or damages for the taking of such

real property. Upon such motion and upon payment of said sum of money to the clerk of the court for the use of the persons entitled thereto, the court shall issue an order ex parte putting the plaintiff in possession of the real property sought to be condemned and permitting the plaintiff to do such work thereon as may be required for the purpose for which the taking of the property is sought. The order placing the plaintiff in possession shall become effective upon the expiration of ten days after service thereof, **provided,** however, that for good cause shown within said ten days, the court may postpone the effective date for an additional period of time. Service of the order shall be made personally on those defendants who are in actual possession, and in other cases may be made by depositing a copy thereof in a United States post office, postage prepaid, registered mail, addressed to such defendants at their last known addresses, or to their attorneys of record. No order of possession issued pursuant to this section shall become effective until summons in the action shall have been served personally on such defendants in the action as are available for personal service and if any defendants in the action are not served personally, the first publication of the summons directed to such defendants shall have occurred as provided in section 10061.

Upon application of a party entitled thereto the court may order that the money paid to the clerk of the court as aforesaid, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceedings. A payment to any party as aforesaid shall be held to constitute an abandonment by such party of all defenses interposed by him, excepting his claim for greater compensation or damages. If the compensation or damages finally awarded in respect of said land, or any parcel thereof, shall exceed the amount paid to said clerk as aforesaid in respect thereto, the court shall enter judgment for the amount of the deficiency."

Note: As so amended § 319 appears in the note at the end of this act.

Section 2. **Section 1212** of the Revised Laws of Hawaii 1945 is amended by deleting the period at the end thereof and adding thereto the following:

", or until an order of possession shall have been obtained as provided in section 319."

See note at the end of this act.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 468, Act 200.**

Note: As so amended, §§ 306, 309, 314, 319, 1212 read:

Sec. 306. Circuit courts have jurisdiction. The circuit courts shall have power to try and determine all actions arising under this chapter, subject only to an appeal to the supreme court in accordance with law. The court shall have power on its own motion or on motion of any party to try and determine any issue in the case in advance of other issues. [L. 1896, c. 45, s. 5; R. L. 1925, s. 813; R. L. 1935, s. 55; R. L. 1945, s. 306; am. L. 1947, c. 200, s. 1 (a).]

Sec. 309. Plaintiff. The attorney general of the Territory may, at the request of the head of any department of the Territory, or as otherwise provided by law, institute proceedings on behalf of the Territory for the condemnation of property as provided for in this chapter. And any county may institute proceedings in the name of and on behalf of such county for the condemnation of property within such county for any of the purposes as provided in this chapter which are within the powers heretofore or hereafter granted to the respective boards of supervisors. In this chapter plaintiff shall be deemed to refer to the Territory or to any county. [L. 1896, c. 45, s. 4; am. L. 1917, c. 108, s. 2; R. L. 1925, s. 816; R. L. 1935, c. 58; R. L. 1945, s. 309; am. L. 1947, c. 200, s. 1 (b).]

Sec. 314. Damages assessed, how. In fixing the compensation or damages to be paid for the condemnation of any property, the value of the property sought to be condemned with all improvements thereon shall be assessed, and if any of the improvements are separately owned, the value thereof shall be separately assessed; and if the property sought to be condemned constitutes only a portion of a larger tract, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff shall also be assessed; and also how much the portion not sought to be condemned will be benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the amount of compensation assessed for the property taken, and for damages by reason of its severance from another portion of the same tract, then the owner shall be allowed no compensation, but if the benefits shall be less than the amount so assessed as damages or compensation, then the former shall be deducted from the latter and the remainder shall be the amount awarded as such compensation or damages; **provided,** however, that, in case of the exercise of the power of eminent domain by the city and county of Honolulu in furtherance of any governmental power granted under chapter 129, the amount of damages or compensation assessed or awarded or agreed upon in any compromise approved by motion of the board of supervisors shall in no case be construed as limiting or affecting the power of the board to distribute any portion of such cost upon any property found to be benefited thereby proportioned as provided by law in the exercise of their judgment whether under an improvement district or frontage improvement created before or after the

acquisition of any such land. [L. 1896, c. 45, s. 13; am. L. 1919, c. 63, s. 2; R. L. 1925, s. 821; R. L. 1935, s. 63; R. L. 1945, s. 314; am. L. 1947, c. 200, s. 1 (c).]

Sec. 319. Possession pending action; by plaintiff when; interest. 1. At any time after the commencement of an action pursuant to this chapter, the plaintiff may file a motion for an order of possession supported by an affidavit alleging, or by oral evidence prima facie showing (a) the right of the plaintiff to maintain the action, (b) the public use for which the real property sought to be condemned is being taken, and (c) the sum of money estimated by the plaintiff to be just compensation or damages for the taking of such real property. Upon such motion and upon payment of said sum of money to the clerk of the court for the use of the persons entitled thereto, the court shall issue an order ex parte putting the plaintiff in possession of the real property sought to be condemned and permitting the plaintiff to do such work thereon as may be required for the purpose for which the taking of the property is sought. The order placing the plaintiff in possession shall become effective upon the expiration of ten days after service thereof; **provided,** however, that for good cause shown within said ten days, the court may postpone the effective date for an additional period of time. Service of the order shall be made personally on those defendants who are in actual possession, and in other cases may be made by depositing a copy thereof in a United States post office, postage prepaid, registered mail, addressed to such defendants at their last known addresses, or to their attorneys of record. No order of possession issued pursuant to this section shall become effective until summons in the action shall have been served personally on such defendants in the action as are available for personal service and if any defendants in the action are not served personally, the first publication of the summons directed to such defendants shall have occurred as provided in section 10061.

Upon application of a party entitled thereto the court may order that the money paid to the clerk of the court as aforesaid, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceedings. A payment to any party as aforesaid shall be held to constitute an abandonment by such party of all defenses interposed by him, excepting his claim for greater compensation or damages. If the compensation or damages finally awarded in respect of said land, or any parcel thereof, shall exceed the amount paid to said clerk as aforesaid in respect thereto, the court shall enter judgment for the amount of the deficiency.

2. At any time after judgment has been rendered in the circuit court for or in favor of the plaintiff, or pending an appeal to the supreme court by either plaintiff or defendant, the plaintiff, if not already in possession of the land sought to be condemned under an order entered pursuant to the provisions of paragraph 1 of this section, may be put into possession thereof upon the payment to the clerk of the court of the amount assessed as compensation or damages and such further sum as may be required by the court as a fund to pay any further compensation or damages that may be awarded

as well as all damages that may be sustained by the defendant if for any cause the property shall not be finally taken for public use. Upon such payment, the court shall make an order putting plaintiff into possession of the property sought to be condemned with the right to use the same during the pendency of and until the final conclusion of the litigation. If the plaintiff shall have appealed to the supreme court such amount shall be held by the clerk until the entry of final judgment and such final judgment shall include, as part of the just compensation and damages awarded, interest at the rate provided in section 316 from the date of the order letting plaintiff into possession as aforesaid. If the defendant who is entitled to the amount of money assessed as compensation or damages and paid into court under the provisions of this paragraph shall have appealed to the supreme court, such defendant shall have the right to demand and receive payment of the same at any time thereafter, upon filing a receipt therefor and an abandonment of all defenses to the action or proceeding except as to the amount of compensation or damages that he may be entitled to in the event that a new trial shall be granted.

3. If an order be made letting the plaintiff into possession as provided for in this section, the final judgment shall include, as part of the just compensation and damages awarded, interest at the rate provided in section 316 from the date of such order until paid by the plaintiff, provided, however, that except in the case of an appeal by the plaintiff as hereinabove provided, interest shall not be allowed upon any sum or sums paid by the plaintiff to the clerk of the court as aforesaid from the date of such payment. The court shall have power to fix and include in such order or judgment the time within which and the terms upon which the parties in possession shall be required to surrender possession to the plaintiff. The court shall have power to make such orders in respect of encumbrances, liens, rentals, taxes, assessments, insurance and other charges, if any, as shall be just and equitable.

4. If the proceedings shall be abandoned or discontinued before reaching final judgment, or if, for any cause, the property concerned shall not finally be taken for public use, and judgment is entered in favor of the defendant for damages under the provisions of section 318, any moneys which shall have been paid by the plaintiff to the clerk of the court under this section shall be applied toward the satisfaction of such judgment. [L. 1896, c. 45, pt. of s. 16, s. 19; R. L. 1925, s. 825; R. L. 1935, s. 68; am. L. 1937, c. 184, s. 5; R. L. 1945, s. 319; am. L. 1947, c. 200, s. 1 (d).]

Sec. 1212. Condemnation proceedings, effect of. A vested fishing right when so established shall continue, for the purpose of sections 1211-1213, notwithstanding the pendency of any condemnation proceedings, until judgment is entered upon such condemnation proceedings and the compensation named therein has been paid or tendered to the owner of the vested fishing right or others interested therein, or until an order of possession shall have been obtained as provided in section 319. [L. 1905, c. 86, s. 2; R. L. 1945, s. 1212; am. L. 1947, c. 200, s. 2.]

Chapter 9. EXPENDITURE OF PUBLIC MONEY.

Series A-13: ACT 18

An Act Relating to the Expenditure of Public Money, and Amending Sections 351 and 6592 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 351 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 351. **Expenditure of public moneys; procedure.** No expenditure of public money, except salaries or pay of officers or employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the Federal, Territorial, municipal or county governments, where the sum to be expended shall be twenty-five hundred dollars or more, shall be made, except under contract let after public advertisement for sealed tenders, in the manner provided by law; and no expenditures for public purposes shall be so divided or parceled as to defeat or evade the provisions of this section; **provided,** however, that expenditures may be made, with the approval of the board of supervisors, in the case of a county, or of the governor, in the case of the Territory, or of its board or other governing authority, in the case of any independent board or agency, in excess of such sum without so contracting when the expenditures are for repairs of roads, water works and buildings, or when the work to be done is of such a nature that its extent and character can not be known or specified beforehand with reasonable certainty, or when no tender is received in response to an advertisement, or, with such approval, in an amount not in excess of fifteen thousand dollars, for new roads, water works and buildings, either on behalf of the expending division of government or for the Federal or Territorial government or any department thereof, without contract, advertisement or sealed tenders; and, in the case of such new roads, water works and buildings, expenditures in excess of such sum

may be made, with the same approval, provided that the expending division of government shall first advertise for sealed tenders and shall keep a full and true account of the cost of the work, if done by itself, without awarding a contract therefor, and shall, upon the completion of the work, publish a full and true statement of its cost and of the amounts of rejected tenders, if any; and **provided** that any governmental agency actually performing the work shall in no case receive more than the actual cost thereof. And **provided,** further, that nothing herein provided shall prevent the board of hospitals and settlement, if, after publication of a call for tenders as herein provided for, it receives no bids from any responsible bidder or only one bid therefrom, from purchasing at regular market prices, meats, on the hoof or otherwise, and foodstuffs, as may from time to time be required for the leper settlement."

Note: § 352 was amended L. 1945, c. 147 (A-9). See footnote below for § 351.

Section 2. Section 6592 of the Revised Laws of Hawaii 1945 is hereby amended by amending the second and third paragraphs thereof to read as follows:

"**Purchases under two thousand five hundred dollars.** All purchases of materials or supplies involving an expenditure of two thousand five hundred dollars or less, required for any board, officer or employee, hereafter in this section referred to as 'department', of the city and county shall be made by the purchasing agent, upon requisition delivered to him signed by the authorized representative of the department for which the purchase is to be made.

Purchases over two thousand five hundred dollars. All purchases involving an expenditure in excess of two thousand five hundred dollars shall be made from the lowest responsible bidder by the purchasing agent upon requisition delivered to him signed by the authorized representative of the department for which the purchase is being made. The specifications on which bids are called for must first be approved by the purchasing agent and by the authorized representative of the department for which the purchase is being made, or, in lieu of the latter, by the controller. The acceptance of any bid shall be approved by the purchasing agent and by the authorized representative of the department for which the purchase is being made, or, in lieu of the latter, by the controller."

Section 3. This Act shall take effect upon its approval.
(Approved April 28, 1947.) **H.B. 245, Act 18.**

Note: As so amended, §§ 351 and 6592 read:

Sec. 351. Expenditure of public moneys; procedure. No expenditure of public money, except salaries or pay of officers or employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the Federal, Territorial, municipal or county governments, where the sum to be expended shall be twenty-five hundred dollars or more, shall be made, except under contract let after public advertisement for sealed tenders, in the manner provided by law; and no expenditures for public purposes shall be so divided or parceled as to defeat or evade the provisions of this section; **provided,** however, that expenditures may be made, with the approval of the board of supervisors, in the case of a county, or of the governor, in the case of the Territory, or of its board or other governing authority, in the case of any independent board or agency, in excess of such sum without so contracting when the expenditures are for repairs of roads, water works and buildings, or when the work to be done is of such a nature that its extent and character can not be known or specified beforehand with reasonable certainty, or when no tender is received in response to an advertisement, or, with such approval, in an amount not in excess of fifteen thousand dollars, for new roads, water works and buildings, either on behalf of the expending division of government or for the Federal or Territorial government or any department thereof, without contract, advertisement or sealed tenders; and, in the case of such new roads, water works and buildings, expenditures in excess of such sum may be made, with the same approval, provided that the expending division of government shall first advertise for sealed tenders and shall keep a full and true account of the cost of the work, if done by itself, without awarding a contract therefor, and shall, upon the completion of the work, publish a full and true statement of its cost and of the amounts of rejected tenders, if any; and **provided** that any governmental agency actually performing the work shall in no case receive more than the actual cost thereof. And **provided,** further, that nothing herein provided shall prevent the board of hospitals and settlement, if, after publication of a call for tenders as herein provided for, it receives no bids from any responsible bidder or only one bid therefrom, from purchasing at regular market prices, meats, on the hoof or otherwise, and foodstuffs, as may from time to time be required for the leper settlement.

Special or sub-contracts by any governmental agency for materials or supplies or purchases of materials or supplies made in furtherance of the contract referred to in the foregoing provisos, shall be subject to the requirement of public advertisement for sealed tenders in the manner provided by law.

Before any prospective bidder shall be entitled to submit any bid for the performance of any contract with the Territory, or the city and county of Honolulu, or with any agency of either for the construction of any public

building or other public work (not including contracts between governmental agencies or subdivisions) the officer charged with letting such contract shall require answers, under oath, to questions contained in a standard form of questionnaire to be prepared by the superintendent of public works, by and with the approval of the governor, setting forth a complete statement of the experience of such prospective bidder and his organization in performing similar work and his financial ability to perform the work intended and a statement of the equipment proposed to be used, together with proof of its availability. Whenever it shall appear to such officer, from the answers to the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the advertised work, such officer shall, after affording the prospective bidder an opportunity to be heard, if still of the opinion that the bidder is not fully qualified to perform the work, refuse to receive or consider any bid offered by the prospective bidder. The information contained in the answers to the questionnaire shall be and remain confidential. If any governmental officer or employee shall knowingly divulge or permit any divulgence of such information to any person not lawfully entitled thereto, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two hundred and fifty dollars.

The board of supervisors of any county may by ordinance in like manner provide for the prequalification of bidders for the performance of any contract for the construction of any public building or other public work (not including contracts between governmental agencies or subdivisions) for such county.

Questionnaires so submitted, after having served their purpose, shall be returned to the bidder.

In all expenditures of public money for any public work or in the purchase of materials or supplies, preference shall be given to American products, materials and supplies. [R. L. 1935, s. 80; R. L. 1945, s. 351; am. L. 1947, c. 18, s. 1.]

Sec. 6592. The bureau of purchases and supplies; purchasing agent, etc. There is hereby created a bureau to be known as the bureau of purchases and supplies, the chief administrative head of which shall be the purchasing agent. He shall be charged with the purchase of all materials for the city and county. No contract for services of firms or persons other than regularly appointed employees shall be made without the approval as to form and availability and designation of funds by the controller. The purchasing agent shall be appointed by the controller. The purchasing agent shall receive such salary as may be fixed and allowed by the board of supervisors pursuant to any existing classification system, and shall be required to give official bond in the amount of ten thousand dollars conditioned upon the faithful performance of his duties.

Purchases under two thousand five hundred dollars. All purchases of materials or supplies involving an expenditure of two thousand five hundred dollars or less, required for any board, officer or employee, hereafter in this section referred to as "department," of the city and county shall be made by the purchasing agent, upon requisition delivered to him signed by the authorized representative of the department for which the purchase is to be made.

Purchases over two thousand five hundred dollars. All purchases involving an expenditure in excess of two thousand five hundred dollars shall be made from the lowest responsible bidder by the purchasing agent upon requisition delivered to him signed by the authorized representative of the department for which the purchase is being made. The specifications on which bids are called for must first be approved by the purchasing agent and by the authorized representative of the department for which the purchase is being made, or, in lieu of the latter, by the controller. The acceptance of any bid shall be approved by the purchasing agent and by the authorized representative of the department for which the purchase is being made, or, in lieu of the latter, by the controller.

Specifications, etc. Whenever practicable, any said specification or acceptance of bids shall have affixed thereto signatures showing the approval or disapproval, as the case may be, of the authorized representative of the department for which the purchase is being made, and of the controller, but either of said signatures, together with the signature of the purchasing agent, shall be sufficient to approve any said specification or acceptance of bids.

Engineer's authority. In any purchase exceeding two thousand dollars made for the city and county engineer, the engineer shall have entire authority to prepare the necessary specifications without the approval of the purchasing agent, and no contract for such purchase shall be awarded or made by the purchasing agent without the approval of the said engineer.

Emergency purchases. The controller shall establish and make available to all departments, rules providing for (1) emergency purchases which might be required and could not be made under the procedure set forth in this section without loss to the city and county, and (2) blanket purchase orders not exceeding two hundred dollars each for any calendar month, which shall be authority to make purchases thereunder to any department specified in any such blanket order, such department having budget authority to incur such expense, when the business of said department would suffer loss and injury from the lack of such blanket purchase order.

The provisions of this section shall **not** be applicable to the board of water supply. [L. 1939, c. 242, pt. of s. 4 (33a); am. L. 1941, c. 250, s. 1; R. L. 1945, s. 6592; am. L. 1947, c. 18, s. 2.]

Chapter 11. GENERAL DEPARTMENTAL REGULATIONS.

Series A-14: ACT 1

An Act Amending Chapter 11, Revised Laws of Hawaii 1945, Relating to General Departmental Regulations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 11, Revised Laws of Hawaii 1945, is hereby amended by amending section 454 thereof to read as follows:

"Sec. 454. **Salaries of territorial and county employees during absence abroad.** No territorial or county officer or employee, except with the written approval of the governor, mayor, or chairman of the board of supervisors, as the case may be, shall receive his salary during an absence of more than two months from the Territory on official business. Any territorial or county officer or employee who, at the request of his department head, acting with the written approval of the governor, mayor or chairman of the board of supervisors, as the case may be, goes abroad from the Territory and engages in research work, or makes a survey for the benefit of the government employing him, shall be considered to be on official business, and shall receive, while absent from the Territory, his regular compensation as provided by law." [L. 1923, c. 72, s. 1; R. L. 1945, s. 454; am. L. 1947, c. 1, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved March 26, 1947.) **S.B. 28, Act 1.**

Note: § 457 was amended L. 1945, c. 95 (A-10); § 458 was amended L. 1945, c. 248 (A-11); § 460.01 was added L. 1945, c. 26 (A-12); § 484 was amended L. 1945, c. 205 (A-13).

Series A-15: ACT 198

An Act to Amend Section 492 of the Revised Laws of Hawaii 1945, Relating to the Payment of Premium and Stamps on Bonds of Public Officers and Employees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 492 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the words "circuit or" in line 8 of said section.

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **S.B. 448, Act 198.**

Note: As so amended, § 492 reads:

Sec. 492. Premium and stamps paid by government, when. When any corporation as hereinbefore designated shall be surety on any official bond required or authorized by this subtitle, the premium due such corporation for acting as such surety, and all stamps required by law to be paid thereon, shall be paid by the Territory. The treasurer may contract for the best possible premium rate therefor and may contract for premium rates for more than one bond at the same time; **provided,** that such stamps and premiums on official bonds of license commissioners, district court officers, and all other officers whose expenditures are paid by the several counties, shall be deemed to be included in such expenditures and shall be paid by the several counties. [L. 1905, c. 100, s. 11; am. L. 1907, c. 114, s. 1; am. L. 1913, c. 128, s. 1; am. L. 1917, c. 138, s. 1; R. L. 1925, s. 156; R. L. 1935, s. 142; R. L. 1945, s. 492; am. L. 1947, c. 198, s. 1.]

Chapter 12. LEAVES OF ABSENCE; VACATIONS.

Series A-16: ACT 27

An Act Amending Chapter 12, Revised Laws of Hawaii 1945, Relating to Leaves of Absence and Vacations of Government Employees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 12, Revised Laws of Hawaii 1945, is hereby amended by amending **section 552** thereof by adding thereto the following paragraph:

"(c) Whenever any officer or employee of the Territory or of the several counties who is entitled to sick leave with pay under this section has been granted and has used up the maximum amount of such leave that may be granted under this section and the rules and regulations promulgated hereunder, and such officer or employee is granted further sick leave without pay, the officer or employee who is required by the department head to perform the full duties and to assume the full responsibilities of such absent officer or employee shall be entitled to and be paid the compensation provided by law for the position of the absent officer or employee if such compensation is higher than his own. Such higher compensation shall be paid to the substitute as long as the absent officer or employee remains on sick leave without pay and as long as the substitute performs the full duties and assumes the full responsibilities of the absent officer or employee." [R. L. 1945, s. 552; am. L. 1947, c. 27, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 1, 1947.) **S.B. 73, Act 27.**

Note: As so amended, § 552 reads:

Sec. 552. Sick leaves; exceptions; rules and regulations. (a) With the exception of school teachers and school principals employed in the public schools of the Territory and the instructional staff of the University of Hawaii, all officers and employees in the service of the Territory or of the several counties shall be entitled to and granted cumulative sick leave with pay at the rate of one and three-quarters working days for each month of service, **provided** that the total accumulation thereof shall not exceed fifty-four working days; **provided,** further, that additional sick leave with pay, in excess of that which the officer or employee is entitled to, may be granted with the written approval of the governor, mayor or chairman of the board of supervisors, as the case may be; **provided,** further, that the expression "employees" shall include casual, irregular, or sporadic employees, commonly designated as per diem employees.

(b) Rules and regulations shall be promulgated by the governor with respect to vacations and sick leaves of territorial officers and employees, and by the mayor of the city and county and the chairman of the board of supervisors of each county, subject to the approval of the respective boards of supervisors, with respect to vacations and sick leaves of officers and employees of the city and county and the several counties and the respective boards, commissions and departments thereof, in accordance with law and not inconsistent with this chapter, for the proper administration and regulation of vacations and sick leaves so as to obtain, so far as possible, uniformity and practicability in the application of this chapter.

(c) Whenever any officer or employee of the Territory or of the several counties who is entitled to sick leave with pay under this section has been granted and has used up the maximum amount of such leave that may be granted under this section and the rules and regulations promulgated hereunder, and such officer or employee is granted further sick leave without pay, the officer or employee who is required by the department head to perform the full duties and to assume the full responsibilities of such absent officer or employee shall be entitled to and be paid the compensation provided by law for the position of the absent officer or employee if such compensation is higher than his own. Such higher compensation shall be paid to the substitute as long as the absent officer or employee remains on sick leave without pay and as long as the substitute performs the full duties and assumes the full responsibilities of the absent officer or employee. [R. L. 1945, s. 552; am. L. 1947, c. 27, s. 1.]

Note: See L. 1947, J. R. 16 and J. R. 20, post, re continuing Defense Rule 74.

§ **556** was amended L. 1945, c. 184 (A-14); § **556.01** was added L. 1945, c. 114 (A-15).

Series A-17: ACT 118

An Act to Amend Chapter 12 of the Revised Laws of Hawaii 1945, as Amended, Relating to Leave of Absence, by Adding a New Section to be Designated Section 558A, Relating to Time of Expiration of Sections 556, 557, 558 and 558A.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 12 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding a new section to read as follows:

"**Sec. 558A. Time Of Expiration.** Sections 556, 557, 558 and 558A shall expire upon the day that the federal laws on the same subjects become inoperative and cease to apply." [L. 1947, c. 118, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1947.) **S.B. 399, Act 118.**

Note: § **559** was amended L. 1945, c. 176 (A-16); see also **L. 1947, c. 216** (F-240) post, re vacation allowances.

Chapter 13. LOYALTY LAW.

Note: § **600** was amended L. 1945, c. 131 (A-17).

Series A-18: ACT 117

An Act Amending Section 605 of the Revised Laws of Hawaii 1945, Relating to the Loyalty Oath.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 605** of the Revised Laws of Hawaii 1945, is hereby amended by adding two new sentences at the end of the first paragraph, to read as follows:

"The several civil service commissions may require the said oath or affirmation to be printed on the application blank for employment. If the person receives employment, said application shall become a part of the permanent records of the civil service office and no further oath shall be necessary, notwithstanding any other provisions of chapter 13 to the contrary."

Section 2. Any rules or regulations now in force and effect and which conflicts with the intent of this amendment are hereby abrogated.

Section 3. This Act shall take effect upon its approval.

(Approved May 15, 1947.) **S.B. 314, Act 117.**

Note: As so amended, § 605 reads:

Sec. 605. Applicants for civil service examinations, positions, oath required of. The several civil service commissions shall by rule or regulation require all applicants for examination to take and subscribe the oath or affirmation prescribed in section 600, and no person shall be permitted to take any such examination and the name of no person shall be placed upon any registration, employment or reemployment list who has not taken and subscribed the said oath or affirmation. The several civil service commissions may require the said oath or affirmation to be printed on the application blank for employment. If the person receives employment, said application shall become a part of the permanent records of the civil service office and no further oath shall be necessary, notwithstanding any other provisions of chapter 13 to the contrary.

Upon the removal or discharge of any person who shall fail or refuse to take the oath or affirmation prescribed and required by section 600, the provisions of chapter 2 shall not be applicable. [L. 1941, c. 128, s. 8; am. L. Sp. 1941, c. 60, s. 6; R. L. 1945, s. 605; am. L. 1947, c. 117, s. 1.]

Note: § 615 was amended L. 1945, c. 131 (A-17).

Chapter 14. PENSIONS: GENERAL PROVISIONS.

Series A-19: ACT 28

An Act Amending Section 631 of the Revised Laws of Hawaii 1945, Relating to Pensions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 1 of **section 631** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof the following new sentence:

"The provisions of this subsection 1 shall not apply to any such recipient or beneficiary who is elected to the legislature or as a supervisor to the board of supervisors of any county."

Section 2. This Act shall take effect upon its approval but shall be retroactive to November 3, 1946.

(Approved May 1, 1947.) **S.B. 129, Act 28.**

Note: As so amended, § 631 reads:

Sec. 631. To what pensions applicable. The following provisions shall be applicable to every pension, and to every recipient or beneficiary thereof, granted or provided for by any special act of the legislature (other than pensions, or the recipients thereof, payable to beneficiaries of the employees' retirement system under chapter 15) whether such pension be payable by the Territory or by any county, or by any board, commission, bureau, department or other agency thereof:

1. No such recipient or beneficiary shall be permitted to draw any such pension, or any portion thereof, in excess of fifty dollars per month, while he is holding any salaried position or office in, under or by authority of the United States, the Territory, or any political subdivision thereof. The provisions of this subsection 1 shall not apply to any such recipient or beneficiary who is elected to the legislature or as a supervisor to the board of supervisors of any county.

2. If the recipient or beneficiary is a widow, the pension so granted to her shall cease upon her remarriage.

3. Any pension payable to any minor shall cease upon the minor reaching the age of eighteen years.

4. If any male recipient or beneficiary of a pension, having a wife at the time the pension was first granted to him, shall die, then his wife, as long as she remains a widow, shall be paid sixty per centum of the amount of the pension payable to the male beneficiary. [L. 1933, c. 157, s. 1; R. L. 1935, s. 7915; am. L. 1943, c. 44, s. 1; R. L. 1945, s. 631; am. L. 1947, c. 28, s. 1.]

Note: §§ 635.01-.04 were added L. 1945, c. 218 (A-18) relating to pension commission.

Chapter 15. RETIREMENT SYSTEM.*

Series A-20: ACT 85*

An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Employees' Retirement System of the Territory, and Directing the Board of Trustees of the System in Regard to the Administration of the Amendments Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1945, as amended, is hereby amended as follows:

(a) By amending the definition of the term "average final compensation" contained in **section 701** to read as follows:

"Average final compensation: the average annual compensation, pay or salary earnable by a member (a) during any period of five consecutive years of service as an employee at the option of the employee, or (b), if he has had less than five years of service, then during his actual years of service."

(b) By amending subsection 2 of **section 707** to read as follows:

"2. The board shall consist of five trustees as follows: (a) the treasurer of the Territory, ex-officio; (b) two members of the system to be elected by the members of the system, under such rules and regulations as may be adopted by the board to govern such election, to serve for terms of four years each, one of such terms to expire on January 1 of each fourth year commencing January 1, 1948 and the other to expire on January 1 of each fourth year commencing January 1, 1950, or until their successors are elected and qualified; **provided,** however, that at the first election held in 1947, the member receiving the highest number of votes at such election shall serve for a term to expire January 1, 1952, and the member receiving the second highest number of votes at such election shall serve for a term to expire January 1, 1950; and (c) two citizens of the Territory who are not employees, one of whom shall be a responsible officer of a bank authorized to do business within the Territory, or a person with similar experience, to be appointed by the governor to serve for terms of four years each, one of such terms to expire January 1 of each fourth year commencing with January 1, 1927, and the other to expire each fourth year commencing with January 1, 1929, such trustees to take office at appointment."

(c) By inserting after the semi-colon in line 8 of subsection 1 of **section 708** the following proviso:

"**provided,** further, that a member who has attained the age of fifty-five years or has had thirty years of creditable service, even though separated from service, may at their election retire and receive a retirement allowance consisting of his annuity, computed as provided in subsection 2 (a) of this section, and a pension and additional pension, if entitled thereto, having a value equal to the present worth of a deferred pension beginning at the age of sixty years computed as provided in subsections 2 (b) and (c) of this section;".

(d) By deleting from line 1 of subsection 2 of **section 708** the word "Upon" and inserting in lieu thereof the words "Except as otherwise provided in subsection (a) of this section, upon".

Section 2. There is hereby appropriated from the general revenues of the Territory of Hawaii the sum of $132,000.00 to carry out the purposes of this Act.

Section 3. This Act shall take effect upon July 1, 1947.

(Approved May 13, 1947.) **H.B. 720, Act 85.**

* NOTE: Sections **701-710, as amended** by L. 1945 **and** L. 1947, **are rewritten** and placed in the **Supplement** at the end of this volume.

Series A-21: ACT 103*

An Act Relating to the Employees' Retirement System of the Territory, Amending Chapter 15 of the Revised Laws of Hawaii 1945, as Amended, So as to Provide for Return of Accumulated Contributions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1945, as amended by Act 73 (Series A-19) of the Session Laws of Hawaii 1945, is hereby further amended in the following respects:

(a) By amending subsection 4 of **section 703** thereof to read as follows:

"4. Should any member having less than five years of creditable service be absent from service more than five years, or should any member withdraw his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member."

(b) By amending subsection 10 of **section 708** thereof to read as follows:

"10. Return of accumulated contributions. (a) Any member who shall cease to be an employee, except by death or retirement, upon demand made in writing within five years from the time he ceases to be an employee, shall be paid all his accumulated contributions. (b) Any member who shall cease to be a member by reason of his absence from service for more than five years and who has less than five years of creditable service, shall thereupon be paid all his accumulated contributions. (c) In case of the death of any member after termination of service, his accumulated contributions shall be payable to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board."

(c) By adding to **section 708** thereof a new subsection to be numbered subsection 13 and to read as follows:

"13. Any member whose membership shall continue notwithstanding his separation from service shall be eligible for the service retirement benefit only, which shall be payable only in accordance with the provisions relating thereto."

Section 2. Any person who, on the effective date of this Act, is a member of the employees' retirement system of the Territory but not an employee, upon demand made in writing within five years from the time he ceased to be an employee, or within one year from the effective date of this Act, whichever date is the later, shall be paid all his accumulated contributions. The terms "employee" and "accumulated contributions" are used in this section in the same sense as in chapter 15 of the Revised Laws of Hawaii 1945, as amended.

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 10, Act 103.**

* NOTE: See **Supplement** at end of this volume for §§ **703, 708,** rewritten as now amended.

Series A-22: ACT 140*

An Act Relating to the Employees' Retirement System of the Territory, Amending Chapter 15 of the Revised Laws of Hawaii 1945, as Amended, and Act 73 (Series A-19) of the Session Laws of Hawaii 1945, and Making Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1945, as amended by Act 73 (Series A-19) of the Session Laws of Hawaii 1945, is hereby further amended in the following respects:

(a) By amending the first sentence of subsection 1 of **section 704** thereof to read as follows:

"Under such rules and regulations as the board may adopt and subject to such exceptions as the board may provide, each employee who on July 1, 1945, is a member, or thereafter shall become a member prior to July 1, 1947, shall file, on or before July 1, 1947, a detailed statement of all service as an employee rendered by him prior to the filing thereof for which he claims credit."

(b) By deleting the word "he" in the eighteenth line of subsection 5 of **section 704** thereof, as said subsection appears on page 27 of the Session Laws of Hawaii 1945, and inserting in place of said word the following:

"within thirty days after notification of the amount of the deficiency in his contributions, or prior to July 1, 1947, whichever is later, but in no event later than December 31, 1947, he shall notify the board in writing of his election to pay such deficiency, and thereafter".

(c) By substituting a comma for the period at the end of subsection 6 of **section 704** thereof and inserting immediately after such punctuation the following:

"except that the cost of benefits arising from the crediting of prior service and membership service which was not creditable prior to July 1, 1945, and for which no provision is made in the regular normal and deficiency contributions to the pension accumulation fund, shall be covered by special contributions by the Territory and benefits payable on account of such credits shall be limited to the amounts received therefor."

(d) By substituting a period for the semicolon in the last sentence of subsection 1 of **section 705** thereof and deleting the proviso immediately following such punctuation.

Section 2. There is hereby appropriated out of the general revenues of the Territory not otherwise appropriated the sum of four hundred twenty thousand dollars ($420,000.00) for the biennium ending June 30, 1949, toward the provision of benefits for prior service and membership service allowable under Act 73 (Series A-19) of the Session Laws of Hawaii 1945, as amended by this Act. As a part of the actuarial valuation of the liabilities of the employees' retirement system of the Territory for the year 1948, the amount of the liability on account of additional prior service and membership service allowable under said Act 73, as amended, shall be determined and the amount of such liability remaining after giving effect to the payments previously made by the Territory on account of such service shall be ascertained. The amount so ascertained shall be reported to the legislature and an amount, not less than the biennial payment which over a period of four biennia would completely cover such remaining liability, shall be included in the appropriation request for the retirement system when it is presented to the legislature. So long as at least the biennial payments herein prescribed are made, full benefits shall be payable and only in the event that the legislature shall fail to make such biennial appropriations shall the benefits thereafter payable on account of such service be reduced to the amounts which can thereafter be paid from the funds remaining from the appropriations made for such purpose.

Section 3. The second paragraph of **section 4 of Act 73** (Series A-19) of the Session Laws of Hawaii **1945** and any other provision of said Act inconsistent with any of the provisions of this Act are hereby amended to conform herewith.

Section 4. There is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of ten thousand dollars ($10,000.00) for the administrative expenses in connection with claims for prior service credit and membership service credit allowable under Act 73 (Series A-19) of the Session Laws of Hawaii 1945, as amended by this Act. Said moneys shall be expended upon vouchers approved by the board of trustees of the employees' retirement system of the Territory or in its behalf by such officer as shall be designated by said board for such purpose, acting under prior authorization or pursuant to instructions of said board.

Section 5. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 853, Act 140.**

* NOTE: §§ **701-710**, rewritten, see **Supplement**, post.

Series A-23: ACT 58*

An Act Extending the Application of the Employees' Retirement System of the Territory of Hawaii to Certain Employees for Periods When Employed by the Legislature.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 704.01.**] Section 1. [**Service while legislative employee.**] Where any territorial or county employee subject to the classification law takes leave of absence to be employed by the legislature during any legislative session, such employee shall be entitled to all benefits and required to make all employee contributions under the employees' retirement system of the Territory of Hawaii for the period during which such employee worked for the legislature. [L. 1947, c. 58, s. 1.]

Section 2. The provisions of section 1 shall be retroactive as to every employee affected, upon the employee paying into such system the contributions which would have been required, had such contributions been made at the time of such service with the legislature, together with the necessary interest accumulations.

Section 3. Moneys sufficient to cover the necessary government contribution to such retirement system for such service is hereby appropriated from the general fund of the Territory of Hawaii.

Section 4. This Act shall take effect upon its approval.
(Approved May 8, 1947.) **S.B. 189, Act 58.**

* NOTE: See **Supplement** at end of this volume.

Series A-24: ACT 233*

An Act to Amend Subsection 2 of Section 710 of the Revised Laws of Hawaii 1945, Relating to Investments of Funds of the Employees' Retirement System of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 2 of **section 710** of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"2. **Investments.** Investments may be made in:

(a) **Real Estate.** Such real estate as may be conveyed to it by way of mortgage, or in trust or otherwise, to secure or provide for the payment of loans previously contracted

or moneys due; such real estate as may be purchased at sales upon foreclosure of mortgages or under trust or in enforcing any security or under judgments or decrees obtained for loans, debts or claims due it, or on executions issued upon judgments or decrees; and such real estate as may be conveyed to it in satisfaction of debts previously contracted in the course of its dealings. All real estate acquired at sales upon foreclosure of mortgages or otherwise must be sold and disposed of within five years after acquiring title to the same; **provided,** that the governor may, for cause shown, extend this time for periods not exceeding five years each.

(b) **Secured bonds.** Bonds and notes secured by first mortgages or deeds of trust on unencumbered improved real estate owned in fee simple worth at least sixty-five per centum more than the respective amount of the first mortgages or deeds of trust; **provided** that no building shall be included in such value beyond the amount of the insurance thereon for which a policy shall have been transferred to the board, such policy to be kept in force as long as the loan continues.

(c) **Government obligations.** Bonds and other direct obligations of the United States or of the Territory or any political or municipal subdivision thereof, or of any state, county, city, town, township or school district within the United States, either having a population of fifty thousand inhabitants or over, or whose indebtedness, deducting sinking funds available for the payment thereof, does not exceed ten per centum of the valuation of property therein as assessed next preceding the date of the investment; or in any such securities which are guaranteed as to principal and interest by the United States, by the Territory or by any state within the United States.

(d) **Revenue bonds.** Revenue bonds of the Territory and of all political or municipal subdivisions now or hereafter created in the Territory, including the board of water supply of the city and county of Honolulu.

(e) **Corporate obligations.** Bonds and other direct obligations of any corporation located in the Territory or wholly or principally in the United States, which has been a going concern for at least ten years, the capital stock of which equals at least one-third of its funded indebtedness, and which for the ten years preceding the date of the investment has regularly paid all interest charges upon all funded indebtedness outstanding, and for the five years preceding the date of the investment has regularly earned,

after deducting proper charges, at least three per centum upon all issues of its paid up capital stock; and bonds and other direct obligations of any railroad, railway, or terminal corporation which have been, both as to principal and interest, assumed or guaranteed by any such corporation.

(f) **Bonds,** debentures and notes issued by any **federal home loan bank** or consolidated federal home loan bank bonds, notes or debentures.

(g) Bonds of the home owners' loan corporation.

(h) Notes or bonds secured by mortgages insured by the federal housing administrator and securities issued by national mortgage associations organized under Title III of the Acts of Congress, entitled "National Housing Act".

(i) Loans secured by collateral security consisting of any of the above worth at least fifteen per centum more than the amount of the loan.

(j) **Preferred stocks.** Preferred stocks of any corporation located in the Territory or wholly or principally in the United States; **provided,** however, that said preferred stocks shall be cumulative as to dividends; provided, further, that the common stock and surplus of the corporation issuing preferred stocks equals at least one-third of the total of the funded indebtedness and preferred stock, and also, that such corporation, for the ten years preceding the date of the investment, has regularly paid all interest charges and dividends, upon all funded indebtedness and preferred stock outstanding, and for that period has regularly earned, after deducting all proper charges, at least three per centum upon all issues of its paid up capital stock, including both preferred and common stock; **provided,** further, that the total investment in qualified preferred stocks shall at no time exceed five per centum of the total book value of all investments of the system.

(k) Any bonds made eligible by law for purchase in the open market by the federal reserve banks of the United States."

Section 2. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 459, Act 233.**

* NOTE: For rewritten sections of the **Retirement** chapter (§ 701-710) see **Supplement,** post, following Joint Resolutions.

Title 2: AGRICULTURE AND FORESTRY, AND FISHING.
Chapter 16. GENERAL ADMINISTRATION.

Series A-25: ACT 178

An Act to Amend Section 1006 of the Revised Laws of Hawaii 1945, Relating to the Powers and Duties of the Board of Commissioners of Agriculture and Forestry.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 4 (entitled "rules and regulations") of **section 1006** of the Revised Laws of Hawaii 1945 is hereby amended by substituting a comma for the semi-colon in the twenty-fifth line of said subsection and by inserting immediately after such punctuation the following:

"or the conservation of the natural supply of fish in any area where, in the judgment of the board, such supply has been or may soon be seriously depleted;".

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **S.B. 312, Act 178.**

Note: Paragraph 4 of § 1006, as so amended, reads:

("It shall be the duty of the board.")

4. **Rules and Regulations.** To make rules and regulations in conformity with this chapter, and to amend the same as occasion requires, subject to the approval of the governor, for and concerning (a) the introduction, transportation and propagation of trees, shrubs, herbs, and other plants; (b) the preservation, protection, extension and utilization of forest reserves, both natural and artificial; (c) the quarantine, inspection, fumigation, disinfection, destruction or exclusion, either upon introduction into the Territory, or at any time or place within the Territory, of any nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root or rhizome; any nut, fruit or vegetable; any grain, cereal or legume in the natural or raw state; any moss, hay, straw, dry-grass or other forage; any unmanufactured log, limb or timber; or any other plant growth or plant product unprocessed or in the raw state; any sand, soil or earth; any live bird, reptile, insect or other animal, in any stage of development, that is in addition to the so-called domestic animals, which are provided for in section 1052; and any box, barrel, crate or other containers in which said articles, substances or objects have been transported or contained, and any packing material used in connection therewith, which is or may be diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful or detrimental, or likely to become injurious, harmful or detrimental to the agricultural or horticultural industries or the forests of the Territory, or which is or may be in itself injurious, harmful or detrimental to the same (included therein

may be rules and regulations governing the shipping of any of the articles, substances or objects enumerated above in this section between different localities on any one of the islands within the Territory; (d) the protection of introduced and transplanted fish, game and shell fish, or the conservation of the natural supply of fish in any area where, in the judgment of the board, such supply has been or may soon be seriously depleted; (e) and the prohibition of importation into the Territory, from any or all foreign countries, or from other parts of the United States, or the shipment from one island within the Territory to another island therein, or the transportation from one part or locality of any island to another part or locality of the same island, of any specific article, substance, or object or class of articles, substances or objects, among those enumerated above in this section, which is diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful or detrimental or likely to be injurious, harmful or detrimental to the agricultural or horticultural industries, or the forests of the Territory, or which is or may be in itself injurious, harmful or detrimental to the same.

All rules and regulations made as aforesaid, when approved by the governor and duly published, shall have the force and effect of law.

Note: § **1006.01,** re permits for taking fish, etc., was added **L.** 1945, c. 14 (A-21).

Series A-26: ACT 13

An Act to Authorize Fish and Game Wardens and Agents to Enforce Laws Relating to Fishing and Hunting Licenses and Firearms and Ammunition.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 16 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be designated section 1011.01 and to read as follows:

"**Sec. 1011.01. Enforcement of other laws.** The territorial director, fish and game, fish and game wardens and other agents of the fish and game division shall, in addition to any other powers possessed by them, have power to enforce the laws relating to fishing and hunting licenses and to firearms and ammunition contained in chapters 133 and 135, as the same may be from time to time amended." [L. 1947, c. 13, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 23, 1947.) **H.B. 535, Act 13.**

Series A-27: ACT 14

An Act to Provide for the Seizure and Forfeiture of Fishing and Hunting Gear Used or Possessed in Violation of Fish and Game Laws or Laws Requiring Licenses for Fishing and Hunting.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 16 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be numbered 1033 and to read as follows:

"**Sec. 1033. Seizure and forfeiture of fishing and hunting gear.** Any fishing or hunting gear used or possessed in violation of any of the provisions of chapters 18, 19, 133 and 135, is declared to be a public nuisance and shall be subject to seizure by any fish and game warden or other agent of the fish and game division of the board or any police officer; and upon conviction of the person using or having possession of such gear for a violation of any provision of said chapters, such fishing or hunting gear shall be declared by the court to be forfeited to the Territory. Any property so forfeited shall be sold or destroyed as the court in its discretion may direct. The proceeds from all such sales shall be paid into the fish and game special fund." [L. 1947, c. 14, s. 1.]

Section 2. Chapter 133 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be numbered 7070.01 and to read as follows:

"**Sec. 7070.01. Seizure and forfeiture of fishing and hunting gear.** Any fishing or hunting gear used in violation of any of the provisions of this subtitle is declared to be a public nuisance and shall be subject to seizure by any fish and game warden or other agent of the fish and game division of the board of commissioners of agriculture and forestry or any police officer; and upon conviction of the person using such gear for a violation of any provision of this subtitle, such fishing or hunting gear shall be declared by the court to be forfeited to the Territory. Any property so forfeited shall be sold or destroyed as the court in its discretion may direct. The proceeds from all such sales shall be paid into the fish and game special fund." [L. 1947, c. 14, s. 2.]

Section 3. This Act shall take effect upon its approval.
(Approved April 23, 1947.) **H.B. 537, Act 14.**

Series A-28: ACT 177

An Act to Amend Section 1056 of the Revised Laws of Hawaii 1945, Relating to the Entry of Domestic Animals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1056** of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto the following provision:

"The landing of any domestic animal known to be affected with any contagious, infectious or communicable disease shall constitute an unlawful entry; **provided,** however, that with the permission of the territorial veterinarian, such animals may be landed for quarantine or destruction and disposal at the expense of the owner or consignee."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 311, Act 177.**

Note: As so amended, § 1056 reads:

Sec. 1056. Landing not an entry. The landing of any animal for the purpose of inspection or quarantine shall not be construed to be an entry into the Territory for any purpose whatsoever, except as herein provided, and if in the opinion of the inspecting officer it shall be necessary or proper to quarantine any such animal, he shall have authority so to do at the expense of the owner or consignee.

The landing of any domestic animal known to be affected with any contagious, infectious or communicable disease shall constitute an unlawful entry; **provided,** however, that with the permission of the territorial veterinarian, such animals may be landed for quarantine or destruction and disposal at the expense of the owner or consignee. [L. 1905, c. 82, pt. of s. 4; R. L. 1925, s. 612; R. L. 1935, s. 207; R. L. 1945, s. 1056; am. L. 1947, c. 177, s. 1.]

Note: See **L. 1947, J. R. 6** post, for transfer of funds to "cat and dog fund" under § **1067.** § **1076** was amended L. 1945, c. 104 (A-22).

Chapter 17. ANIMALS AND BRANDS.

Series A-29: ACT 15

An Act Relating to Expenses of Impounding Animals and Amending Sections 1087 and 1090 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1087** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "fifty cents" in the ninth line thereof the words "one dollar and fifty cents".

Section 2. **Section 1090** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "one dollar" in the penultimate line of said section, the words "two dollars".

Section 3. This Act shall take effect upon its approval.

(Approved April 25, 1947.) **S.B. 186, Act 15.**

Note: As so amended, §§1087 and 1090 read:

Sec. 1087. On public roads, lands. If any animal mentioned in section 1084 shall trespass or stray upon any of the government roads in and around the city of Honolulu, town and district of Hilo, towns of Wailuku and Lahaina, or upon any government road bounded on both sides by legal fence, or upon any government land, any police officer or such person as may be thereunto authorized in writing by the board of supervisors, is authorized to take up such animal and to impound the same as such board shall provide. The owner of the animals so taken up or impounded shall pay to the police officer or such person as may be authorized as aforesaid the sum of not more than one dollar and fifty cents for each animal so trespassing as expenses incurred in taking up, driving and impounding the animal, together with all pound fees as provided in any ordinance relating thereto. If any damage be done by the animals, the owner thereof shall further pay such amount as shall be fixed by the board. And in case the charges and pound fees are not paid, the animals impounded shall be sold at public auction as provided by an ordinance relating thereto. [L. 1907, c. 125, s. 15; am. L. 1919, c. 219, s. 1; R. L. 1945, s. 1087; am. L. 1947, c. 15, s. 1.]

Note: § **1088.01** was added L. 1945, c. 266 (A-23) re continuing trespass of animals.

Sec. 1090. Expenses, driving, etc. In all cases when animals are taken up for trespass, the actual expenses reasonably incurred, or a fair allowance for the labor required in catching, driving and conveying such animals to the pound, in cases where such animals are taken to a pound, and of giving notice to the owner of the same shall be added to the forfeits and damages specified in the preceding sections; **provided,** however, that the charge for such catching or driving and conveying to the pound shall not exceed two dollars and fifty cents per head. [L. 1907, c. 125, s. 18; am. L. 1923, c. 137, s. 1; R. L. 1945, s. 1090; am. L. 1947, c. 15, s. 2.]

Chapter 18. BIRDS AND DEER; GAME BIRD FARMING.

Series A-30: ACT 29

An Act Relating to Hunting.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1151.01.**] Section 1. [**Days for open season.**] Notwithstanding the provisions of any rule or regulation of the board of agriculture designating the days of the week on which hunting is permitted, hunting shall be permitted, as to game birds upon which open season exists and where the law relative to procuring a license has been observed, upon Fridays, Saturdays, Sundays and territorial holidays. [L. 1947, c. 29, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1947.) **S.B. 181, Act 29.**

Note: §§ **1180.01-.09,** re economic poisons, were added L. 1945, c. 60 (A-24).

Chapter 19. FISHING AND MARINE LIFE.
[Sec. 1212 amended L. 1947, c. 200 (A-12) ante.]

Series A-31: ACT 12

An Act to Prohibit the Possession of Fine Meshed Throw Nets in Places Where Fish Can Be Taken and Providing Penalties.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 19 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be numbered section 1227.01 and to read as follows:

"**Sec. 1227.01. Possession of fine meshed throw nets; penalty.** It shall be unlawful for any person who is in the water or on or about the shore where fish can be taken to have in his possession a throw net with a mesh of less than one and one-half inches stretched measure.

Any person violating the provisions of this section shall be punished by a fine of not more than two hundred dollars nor less than twenty-five dollars, or by imprisonment for not more than fifty days, or by both fine and imprisonment." [L. 1947, c. 12, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 23, 1947.) **H.B. 532, Act 12.**

Note: §§ **1214.01-.02** were added L. 1945, c. 107 (A-25), re fish, etc., from non-territorial waters. § **1217.01** was added L. 1945, c. 127 (A-26), re hiring non-citizen.

Series A-32: ACT 19

An Act to Amend Section 1231 of the Revised Laws of Hawaii 1945, Relating to Fishing in Waikiki and Other Canals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1231 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 1231. Fishing in Waikiki and other canals; penalty.** It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with Kapiolani Boulevard or the Kapalama drainage canal with any device whatsoever, except as hereinafter provided.

Any person may fish for or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than two nets, provided the nets shall not exceed two feet in diameter; or

may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension.

With a permit obtained from the board of commissioners of agriculture and forestry and under such rules and regulations as the board may prescribe, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking such fish pond.

With a permit from the board of commissioners of agriculture and forestry, commercial fishermen may take nehu or iao, using nets, for bait purposes only.

The board may issue such permits at its discretion and at any time may revoke any or all such permits when, in its judgment, such action is necessary to preserve the stock of fish in said canals.

Any person who shall violate any provision of this section shall, upon conviction, be punished by a fine of not more than two hundred dollars nor less than twenty-five dollars, or by imprisonment not to exceed six months, or by both fine and imprisonment." [L. 1923, c. 41, ss. 1, 2; R. L. 1945, s. 1231; am. L. 1947, c. 19, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1947.) **H.B. 536, Act 19.**

Series A-33: ACT 179

An Act to Amend Section 1237 of the Revised Laws of Hawaii 1945, Relating to Fishing.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1237 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 1237. Nehu and iao; penalty.** Except as hereinafter provided, it shall be unlawful for any person to fish for, catch or take in or from any of the waters within the jurisdiction of the Territory any nehu or iao; **provided,** however, that citizens may lawfully catch nehu for family consumption with a net not longer than 25 feet; and **provided** further that the board of commissioners of agriculture and forestry may issue to commercial fishermen who have obtained a permit under the provisions of section 1258 licenses to take nehu or iao for use as bait only. Such licenses may be issued by the board upon such terms and conditions as the board may deem necessary to conserve the supply of such fish within territorial waters. Any such license may be summarily revoked for a violation of

any term or condition thereof, and any or all such licenses may be revoked summarily whenever, in the judgment of the board, such action is necessary for the conservation of such fish.

Any person violating any of the provisions of this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than fifty days, or by both fine and imprisonment." [L. 1929, c. 206, ss. 1, 2; am. L. 1931, c. 258, s. 1; am. L. 1933, c. 54, s. 1; R. L. 1935, s. 390; am. L. 1943, c. 54, s. 1; R. L. 1945, s. 1237; am. L. 1947, c. 179, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **S.B. 313, Act 179.**

Series A-34: ACT 39

An Act to Amend Sections 1256, 1257, 1258, 1259, 1260, 1261 and to Add Section 1258.01 of the Revised Laws of Hawaii 1945, Relating to Commercial Fishing, Night Angling and Throw Net Licenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1256 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 1256. Definitions.** When used in this subtitle:

'Angling' means the use for the capture of fish or other aquatic or marine animals, of a hook or hooks, whether baited or not, attached to a line, which in turn may or may not be attached to a rod, or pole, but does not include the use of a gang of unbaited hooks or a hook, attached directly to a rod or pole or otherwise used without a line.

'Commercial fisherman' means a person who has been issued a commercial fishing license as in this subtitle provided.

'Commercial fishing' means the fishing for, or taking of, fish principally for profit or gain, provided such fish are landed in the territory.

'Daytime' means any time between thirty minutes before sunrise and thirty minutes after sunset of the same day, as determined by United States Coast and Geodetic Survey tables for latitude 20° N.

'Division' means the division of fish and game of the board of commissioners of agriculture and forestry.

'Net mesh' means the stretched measure." [L. 1929, c. 187, s. 1; R. L. 1935, s. 330; R. L. 1945, s. 1256; am. L. 1947, c. 39, s. 1.]

Section 2. Section 1257 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1257. **Commercial fishing without a commercial fishing license prohibited.** Except as permitted under section 1215, it shall be unlawful for any person to engage in commercial fishing without first having secured a commercial fishing license from the division as in this subtitle provided." [L. 1929, c. 187, s. 2; R. L. 1935, s. 331; R. L. 1945, s. 1257; am. L. 1947, c. 39, s. 2.]

Section 3. Section 1258 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1258. **Commercial fishing license.** The division, or its duly appointed agents, shall issue a commercial fishing license upon payment of the prescribed fee and receipt of a properly completed application in such form as may be prescribed by the division.

The application form shall require the following information: The applicant's name, address, age, place of birth, height, weight, color of hair and eyes, and citizenship or nationality. If the applicant claims United States citizenship, the board may require the applicant to submit proof of citizenship satisfactory to the board." [L. 1929, c. 187, s. 4; R. L. 1935, s. 333; R. L. 1945, s. 1258; am. L. 1947, c. 39, s. 3.]

Section 4. There is hereby enacted a new section of the Revised Laws of Hawaii 1945, to be numbered section 1258.01 and to read as follows:

"Sec. 1258.01. **Night angling and throw net license.** The division or its duly appointed agents, shall issue, upon payment of the prescribed fees and completion of an application as required for commercial fishing license, the following licenses to persons other than citizens of the United States and commercial fishermen, (a) a night angling license which will allow persons other than citizens of the United States to fish at night by angling and (b) a throw net license which will allow persons other than citizens of the United States to use a throw net in the daytime the net mesh of which shall measure not less than 3 inches." [L. 1947, c. 39, s. 4.]

Section 5. Section 1259 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1259. **License fees, terms.** All licenses issued under this subtitle shall be in force from the time of issuance to

the following June 30, and such licenses shall expire on June 30, and no duplicate license shall be issued to any person, except upon affidavit of the applicant that his license has been lost or destroyed, and upon payment of fifty cents by such applicant.

(a) The fee for a commercial fishing license issued to a person who is a citizen of the United States and who has been a resident of the Territory for not less than one year shall be $5.00.

(b) The fee for a commercial fishing license issued to a citizen of the United States and who is not a resident of the Territory of Hawaii shall be $10.00.

(c) The fee for a commercial fishing license issued to a person other than a citizen of the United States shall be $15.00.

(d) The fee for a license to angle at night shall be $5.00.

(e) The fee for a throw net license shall be $10.00.

The division shall issue a badge to be worn in a conspicuous place on the cap or hat or outer garments by every person holding a license in accordance with this subtitle. Such badge shall bear the same number and symbol as is contained in such license, and must be exhibited to any fish and game warden or other officer authorized to enforce fish and game laws by the person to whom the license was issued upon demand by such fish and game warden. Failure to so carry such badge or to so exhibit the same shall constitute a misdemeanor punishable as provided in section 1260.

Any person lawfully holding a license or badge issued in accordance with this subtitle who wilfully permits the same to be used by any other person for the purpose of evading the provisions of this subtitle, and any person who shall use such license or badge not being the legal holder thereof, for the purpose of evading the provisions of this subtitle, shall be guilty of a misdemeanor punishable as provided in section 1260." [L. 1929, c. 187, s. 5; R. L. 1935, s. 334; R. L. 1945, s. 1259; am. L. 1947, c. 39, s. 5.]

Section 6. Section 1260 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 1260. Penalties; revocation of license, when.** Any person violating any of the provisions of this subtitle or sections 1215 or 1223 shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than two hundred dollars nor less than twenty-

five dollars, or to imprisonment for a term of not more than fifty days nor less than five days, or to both fine and imprisonment; **provided,** however, that in the case of a corporation violating any of said provisions only the fine shall be imposed, but any officer of such corporation who shall have wilfully procured or permitted such violation by such corporation of any of said provisions shall be subject to fine and imprisonment, or both, as in the case of an individual violating the same; **provided,** further, that where any person is convicted of violating the said provisions, the court may in addition to the penalty imposed, revoke any license granted in accordance therewith upon conviction of a second offense." [L. 1929, c. 187, s. 7; R. L. 1935, s. 336; R. L. 1945, s. 1260; am. L. 1947, c. 39, s. 6.]

Section 7. Section 1261 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 1261. Statements under oath.** The division or its agents shall require all statements called for by this subtitle, or which may reasonably be required by the division or its agents under the provisions of this subtitle, for the purpose of procuring any license or badge, or duplicate thereof, to be made under oath, for which purpose each duly appointed agent of the division is authorized and empowered to administer such oaths, and any person who shall wilfully or knowingly make any false statement on a material fact shall be deemed guilty of the crime of perjury, punishable as in chapter 272 provided. For the purpose of this subtitle, whenever the applicant for a license or badge is a firm or corporation, any statements required of such applicant may be made by any member of such firm or by any officer of such corporation in its behalf." [L. 1929, c. 187, s. 8; R. L. 1935, s. 337; R. L. 1945, s. 1261; am. L. 1947, c. 39, s. 7.]

Section 8. This Act shall take effect on July 1, 1947.

(Approved May 5, 1947.) **H.B. 531, Act 39.**

Note: §§ **1263.01-.02** were added L. 1945, c. 24 (A-28); §§ **1265** and **1266** were amended and **1266.01** added L. 1945, c. 24 (A-28).

Chapter 20. FOOD PRODUCTS.

[§§ 1301-1303 were repealed, L. 1945, c. 252 (A-29).]

Series A-35: ACT 195

An Act Relating to Food Products, As Herein Defined; Establishing and Providing for the Establishment of Grades, Standards and Classifications for Such Products; Providing for the Inspection of Such Products and the Certification of the Grade, Classification, Quality and Condition Of and Other Facts Respecting Such Products; Conferring Certain Powers and Imposing Certain Duties Upon the Board of Commissioners of Agriculture and Forestry and the Director of the Division of Marketing of Said Board; Authorizing the Assessment and Collection of Fees and Other Charges; Providing Penalties; and Making Appropriations.

Be it Enacted by the Legislature of the Territory of Hawaii:

REGULATING GRADES AND STANDARDS

[**Sec. 1301.01.**] Section 1. **Definitions.** For the purpose of this Act, unless otherwise required by the context:

"Board" means the board of commissioners of agriculture and forestry;

"Director" means the director of the division of marketing of the board;

"Process" means to can, preserve, freeze, pickle, dry or otherwise prepare, with or without any added ingredients;

"Food product" or "product" means any and all fruits, vegetables and nuts, or part or parts thereof, produced and processed within the Territory, and also any and all fish and fishery products processed within the Territory. [L. 1947, c. 195, s. 1.]

[**Sec. 1301.02.**] Section 2. **Grades, standards and classifications, changes.** The standards for grading and classifying food products that have been or may be hereafter adopted, prescribed or announced by the United States department of agriculture or by or under authority of the Congress of the United States are hereby declared to be the official standards for grading and classifying such food products for the Territory; **provided,** however, that the board may establish and prescribe other and different, or additional, standards for grading and classifying any such products, to the extent permitted by the laws of the United States, which standards, so established and prescribed by the board, shall be the official standards for grading and classify-

ing any such food products for the Territory. The board may also establish and prescribe official standards for grading and classifying any or all food products for which no standards have been adopted, prescribed or announced by the United States department of agriculture or by or under authority of the Congress. The board may change any standards established and prescribed by it hereunder from time to time. [L. 1947, c. 195, s. 2.]

[**Sec. 1301.03.**] Section 3. **Board; grades, standards and classifications; factors.** In establishing any grades, standards or classifications for any food product, the board, in addition to such factors as may be specified in any other law, shall take into account and base such grades, standards or classifications upon such of the following factors as shall be applicable to the product involved: degree of maturity; size, measured by dimensions or weight; degree of freshness, as determined by physical examination or chemical test or analysis; moisture content; uniformity; color; firmness; tenderness; defects; injury; damage; diseases; appearance; mixture of varieties; decay; conformation; soundness; varietal characteristics or type; number of specimens per pound; nature of pack; presence of dirt or other foreign material; condition as to temperature and extent to which the product is hot or heating or is in a sour condition; extent to which product is satisfactory for human or other consumption or use, as the case may be; extent to which the product has been affected by handling or treatment; extent to which the product has a commercially objectional flavor or odor; and other factors indicative of class, quality or condition, and of the value or suitability of the product involved for the commercial or other use to be made thereof. In addition the board shall take into account any grades, standards or classifications for such product established by the United States department of agriculture and also applicable federal grades and standard laws. [L. 1947, c. 195, s. 3.]

[**Sec. 1301.04.**] Section 4. **Board, consideration of use.** The factors required to be considered by the board in establishing any grades, standards or classifications for any food product shall be applied in accordance with the extent to which and manner in which the same relate to the quality and condition of that product and the value and suitability thereof for the commercial or other use to which it is normally put. [L. 1947, c. 195, s. 4.]

[**Sec. 1301.05.**] Section 5. **Board, notice of hearing.** In establishing and prescribing the standards, or any alterations or modifications to such standards, the board shall call a public

hearing and give notice thereof at least 10 days prior thereto by publication of such notice in a newspaper of general circulation in Honolulu. [L. 1947, c. 195, s. 5.]

[**Sec. 1301.06.**] Section 6. **Board, hearing, determination.** After holding a public hearing upon the establishment, alteration or modification of any grades, standards or classifications, the board shall consider the facts and arguments presented at such hearing and shall establish and prescribe, by rule and regulation, such grades, standards and classifications, or modify or alter such grades, standards and classifications, as it may deem best suited to the agricultural, horticultural or other interests of the Territory and the inhabitants thereof. [L. 1947, c. 195, s. 6.]

[**Sec. 1301.07.**] Section 7. **Board, rules and regulations, contracts, cooperation, fees.** The board, in addition to powers granted by this Act or any other law, shall have all powers necessary or convenient to carry out and effectuate this Act, including the following:

(a) To prescribe rules and regulations, not inconsistent with this Act, respecting: the standards for grading and classifying, and the grades, standards and classification for, food products; the inspection, grading and classification of food products; the determination and certification of the grade, classification, quality and condition of food products and such other pertinent facts as the board may deem advisable; the licensing of inspectors, graders and samplers and the duties of such inspectors, graders and samplers; methods of test, analysis and examination in determining the grade, classification, quality and condition of food products; the official word or words, figure or letter to indicate official grade or standards of quality or condition of food products; the design, form and use of official labels and statements for use on packages or containers of products inspected, graded, classified and certified under this Act; and continuous factory inspection, grading, classification and certification of food products.

(b) To contract with the United States department of agriculture for the services of an inspector or inspectors employed by such department and the establishment of a cooperative inspection service with the United States government.

(c) To cooperate with the United States or any department thereof, in accomplishing the matters or things provided for herein.

(d) To fix, assess and collect, or cause to be collected, fees for inspecting or classifying food products, such fees to be on a uniform basis in an amount reasonably necessary to cover, as nearly as may be, the cost of such inspection and the administration of

this Act; **provided,** however, that the board may adjust the fees to be collected hereunder as to meet the expenses necessary to carry out the provisions hereof and may prescribe a different scale of fees for different localities; and, **provided,** further, that the board may prescribe a reasonable charge for traveling expenses and services. Charges for continuous factory inspection and grading may be fixed, assessed and collected on such contract basis as will reimburse the Territory for the salary and all expenses of the factory inspector or grader, to which shall be added an appropriate percentage of charges assessed to cover, as nearly as practicable, administrative overhead expense. [L. 1947, c. 195, s. 7.]

[**Sec. 1301.08.**] Section 8. **Director; inspections, etc.; request necessary.** The director is authorized to designate any employee or agent of the division of marketing to inspect or classify food products, in accordance with such regulations as the board may prescribe, at the request of persons having an interest in such products, and to ascertain and certify to such persons the grade, classification, quality or condition thereof and such other pertinent facts as the board may require. Such inspections, classifications and certifications shall be requested, and in no case shall be required by the board or the director. [L. 1947, c. 195, s. 8.]

[**Sec. 1301.09.**] Section 9. **Director; continuous factory inspection; request necessary; labels or marks.** The director is authorized to designate any employee or agent of the division of marketing to perform continuous factory inspection or classification of food products, in accordance with such rules and regulations as the board may prescribe, at the request of persons having an interest in such products, and to ascertain and certify to such persons the grade, classification, quality or condition thereof and such other pertinent facts as the board may require. Such inspections, classifications and certifications shall be requested, and in no case shall be required by the board or the director.

Subject to and in accordance with rules and regulations prescribed by the board, an appropriate territorial label or mark or marks, established and adopted by the board, may be used on packages or containers of food products which are so continuously inspected and graded and are found to meet the official grades or standards of the board shown on such label or by such mark or marks. Such labels shall include a statement of the official grade or standard of the product contained in the package or container, as graded or classified under this Act, and may include, in whole or in part, a facsimile of the seal of the board. The board may register any such label as a trade mark

under the laws of the Territory or may register it with the United States government and any state or foreign government.

The board may fix, assess and collect, or cause to be collected, fees for the use of such labels or marks or may print and sell such labels, at charges to be fixed by the board, to persons authorized to use them on packages or containers, or may rent dies or cuts of such labels or marks, at a charge to be fixed by the board, to persons authorized to use them. [L. 1947, c. 195, s. 9.]

[**Sec. 1301.10.**] Section 10. **Certificate, appeal to board.** Whenever any quantity of any food product shall have been inspected and certified hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product, any interested person, subject to such regulations as the board may prescribe, may appeal the question to the director, and the director is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and to issue a finding as to the true grade or classification of the product or the quality or condition thereof. Whenever an appeal is taken to the director under this section he shall charge, assess and collect, or cause to be collected, a reasonable fee, to be fixed by the board, which shall be refunded if the appeal is sustained. [L. 1947, c. 195, s. 10.]

[**Sec. 1301.11.**] Section 11. **Certificate, prima facie evidence.** A certificate, when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any food product, issued under this Act and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of food products shall be accepted in any court of this Territory as prima facie evidence of the true grade, classification, quality or condition of such food product at the time of its inspection. [L. 1947, c. 195, s. 11.]

[**Sec. 1301.12.**] Section 12. **Misrepresentation as to grade, etc., penalties.** (a) If any quantity of any food product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof, no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate.

(b) If any lot or lots of any food product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition of such lot or lots, no person

shall represent that such certificate is descriptive of or relates to any other lot or lots of food products not inspected hereunder and not covered by such certificate.

(c) Whenever any standard for the grading or classification of any food product becomes effective under this Act, and any word or words, figure, or mark or marks, or letter, has been established and adopted by the board to indicate the grade or quality of such food product contained in any package or container, it shall be unlawful for any person to use any of said words, letters, figures, or marks, in connection with any package or container, to represent the grade or quality of such food product contained therein, to be sold or offered for sale, if such product does not meet the requirements of the grade indicated by the marking.

(d) Whenever any standard for the grading or classification of any food product becomes effective under this Act, and any label has been established and adopted by the board to indicate the grade, quality or condition of such food product contained in any package or container, it shall be unlawful for any person to use any such label, in connection with any package or container, unless authorized so to use it by, or under the rules and regulations prescribed by, the board.

(e) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or shall be imprisoned for not more than six months, or punished by both such fine and imprisonment. [L. 1947, c. 195, s. 12.]

[Sec. 1301.13.] Section 13. **Remedies, extension of other powers.** In respect of violations or complaints of violation of the provisions of this Act or any rules or regulations made by the board pursuant thereto, the director shall have all the rights and powers conferred upon him by section 2 of Act 252 of the Session Laws of Hawaii 1945, with respect to violations or complaints of violation of the provisions of said Act 252 or any rules or regulations made by the board pursuant to said Act; and all remedies, procedures or actions contained in section 2 of said Act 252, except criminal penalties, for violations or complaints of violation of the provisions of said Act 252 or any rules or regulations made by the board thereunder, shall be severally and respectively conferred, granted, practiced and exercised for violations or complaints of violation of the provisions of this Act or any rules or regulations made by the board pursuant thereto. [L. 1947, c. 195, s. 13.]

[Sec. 1301.14.) Section 14. **Fees, charges, etc., deposited in marketing inspection and agriculture control fund.** All fees, charges, expenses, civil penalties and other moneys collected

under this Act or any rules or regulations prescribed by the board shall be deposited in the treasury of the Territory in the marketing inspection and agriculture control fund. Funds so deposited shall be used for the administration of this Act and are hereby appropriated for such purpose. [L. 1947, c. 195, s. 14.]

Section 15. **Separability of provisions.** If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The legislature hereby declares that it would have passed this Act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Section 16. **Effective date.** This Act shall take effect upon July 1, 1947.

(Approved May 19, 1947.) **S.B. 238, Act 195.**

Note: §§ 1311-1316 were repealed L. 1945, c. 252 (A-29). §§ 1311.01-1311.10 were added by same act, re marketing of agricultural commodities.

[CHAPTER 20A. MIXED FEEDING STUFFS, REGULATION OF.]

Series A-36: ACT 84

An Act Relating to the Board of Agriculture and Forestry; Providing for the Regulation and Registration of Mixed Feeding Stuffs, and for Other Purposes; Providing Penalties.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1320.01.**] Section 1. **Definitions.** As used in this Act:

(a) The term "person" means and includes any individual, partnership, firm, corporation, or association.

(b) The term "mixed feeding stuffs" means and includes any feeding stuff which is a mixture or blend of more than one feed ingredient designed to be used for the purpose of feeding livestock, poultry and rabbits, but does not include wet garbage or mixed feeds for dogs, cats, or other domestic pets.

(c) "Board" means the board of commissioners of agriculture and forestry.

(d) "Director" means the director of the division of marketing of the board of commissioners of agriculture and forestry.

(e) The term "label" means and includes any written, printed or graphic matter upon or affixed to any can, sack or other container of mixed feeding stuffs.

(f) The term "official name" as applied to a feed ingredient included in mixed feeding stuffs means the name prescribed by the then current definitions and standards of the Association of American Feed Control Officials, Incorporated.

(g) "Brand" or "type" of mixed feeding stuff means one which differs from any other in guaranteed analysis, ingredients, trademark, name or any other characteristic method of marking of any nature whatsoever. [L. 1947, c. 84, s. 1.]

[Sec. 1320.02.] Section 2. **Rules and regulations.** The board shall have power to make such rules and regulations regarding the sale, registration and labeling of mixed feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this Act.

It may refuse the registration of any mixed feeding stuff which may be sold or offered or exposed for sale or distribution within the Territory, which does not comply with all provisions of this Act or other regulations which may be hereafter made by the board. [L. 1947, c. 84, s. 2.]

[Sec. 1320.03.] Section 3. **Inspectors.** The board through the director and his authorized agents and inspectors is authorized to enter and procure a sample from any lot, parcel, or package of mixed feeding stuff which is offered for sale or found in the Territory in bulk, sack or package. The sample so obtained shall be taken in accordance with methods prescribed by the Association of American Feed Control Officials. Such sample shall be divided into two approximately equal parts. Each part shall then be sealed and one part promptly delivered to the person having registered such type or brand of mixed feeding stuff, or if not registered, to the owner thereof, and the other to a chemist designated by the board. A label shall be placed on each sample stating the name or brand of the contents, the name of the person from whose stock the sample was taken and the time and place of taking such sample. Each such label shall be signed by the director or one of his authorized agents and by the owner or custodian or representative thereof of the lot, parcel or package from which the sample is taken. Such signature shall be affixed at the time of the sealing of such sample. If the signature of the owner, custodian or representative cannot be obtained, or is refused, the fact shall be noted on the label by the director or his agent. The chemist who makes the analysis shall return to the director two certified copies of his findings. The methods of analysis used shall be prescribed and defined as official by the Association of Official Agricultural Chemists of America. The director shall promptly forward one copy of the findings to the person to whom a portion of the sample was delivered, pursuant

to this section. Such certified findings shall be admissible in the trial of any case or any hearing involving any provision of this Act as presumptive evidence of the facts therein set forth. [L. 1947, c. 84, s. 3.]

[Sec. 1320.04.] Section 4. **Chemists.** The board shall provide for chemical analysis of all mixed feeding stuff samples collected by the director or his authorized agents. [L. 1947, c. 84, s. 4.]

[Sec. 1320.05.] Section 5. **Sales prohibited.** No person shall solicit or receive orders for the purchase of, sell, or offer for sale, within the Territory, or import or cause to be imported into the Territory, any type or brand of mixed feeding stuffs, which type or brand has not been registered and labeled in the manner provided in this Act. [L. 1947, c. 84, s. 5.]

[Sec. 1320.06.] Section 6. **Removal from sale.** Any mixed feeding stuffs offered for sale in violation of the provisions of this Act must, in accordance with rules and regulations of the board, be removed from sale by the vender thereof upon his receiving notice from the board of such violation. The vender must withhold such mixed feeding stuffs from sale until such violation has been corrected. [L. 1947, c. 84, s. 6.]

[Sec. 1320.07.] Section 7. **Mixed feeding stuffs: labels.** There shall be stamped on or printed on each parcel, lot, or container of mixed feeding stuff weighing fifty pounds or more, or on a tag or label affixed thereto in a conspicuous place, a plainly written statement in the English language which shows the following facts with respect to each such parcel, lot or container:

1. The net weight of the parcel, lot, or container.
2. The brand, name or trade-mark.
3. The name and principal address of the manufacturer or the person responsible for placing the commodity on the market.
4. (a) The minimum percentage of crude protein.
   (b) The minimum percentage of crude fat.
   (c) The maximum percentage of crude fiber.
   (d) The maximum percentage of ash.
5. The recognized official name of each ingredient used in its manufacture.
6. In case of mixed feeding stuffs containing more than 7 per cent of mineral ingredients, the minimum percentage of phosphorus and maximum percentage of calcium and salt.
7. The maximum percentage of salt in any mixed feeding stuffs if more than 2 per cent is added.
8. The per cent of added ingredients, if any, of little or no food value such as corn cobs, oat hulls, barley hulls, rice hulls, or similar materials.

Whenever a claim or guarantee on or with the package in addition to those required by law is made, it shall be the responsibility of the person making such claim to maintain the claim or guarantee and he may be required by the board to submit information and records pertinent to such claim or guarantee. [L. 1947, c. 84, s. 7.]

[**Sec. 1320.08.**] Section 8. **Registration of mixed feeding stuffs.** (a) Each and every brand or type of mixed feeding stuff shall be registered with the board; provided, however, that any brand or type of mixed feeding stuff already currently registered for the year by one person need not be registered by another.

(b) A registration fee of $10.00 shall be paid to the board for each mixed feeding stuff registered. Such registration shall expire on July 1 of each year but may be renewed for one year by the payment of a fee of $10.00.

(c) The form of registration shall be in accordance with that currently approved by the Association of American Feed Control Officials, Incorporated.

(d) Moneys received from registration fees shall be deposited with the territorial treasurer in the special fund known as the "marketing inspection and agriculture control fund."

(e) The board, after notice to the registrant or applicant and after a duly held hearing, may cancel the registration of or refuse to register the brand or brands of any person who sells or proposes to sell any mixed feeding stuffs, detrimental or injurious in effect when applied, fed or used as directed, or which is of little or no value for the purposes for which it is intended, or with respect to which false or misleading claims or representations are made. The board may, after notice to the applicant or registrant and after a hearing duly held, cancel the registration of the brand or brands of any person who violates any of the provisions of this Act. [L. 1947, c. 84, s. 8.]

[**Sec. 1320.09.**] Section 9. **Inspection fee.** (a) All persons, milling or processing mixed feeding stuffs within the Territory, shall make a report of the total tons of mixed feeding stuffs sold during each month and pay an inspection fee with respect to such mixed feeding stuffs. The board or any of its duly authorized representatives shall have the right to inspect the records of such millers or processors which pertain to the sales of mixed feeding stuffs. All importers of mixed feeding stuffs imported for use or sale within the Territory shall likewise make a report of the total tons imported and pay an inspection fee with respect to such mixed feeding stuffs. Said reports and payments are to be made to the division of marketing by the 20th day of the month following the sales or landing of said mixed feeding stuffs. The board is authorized to provide by regulation the

form of such report, and to require the filing of further reports with respect to importation of mixed feeding stuffs by carriers, seller's agents and named consignees.

(b) The amount of inspection fees may be set from time to time by the board but shall not exceed a maximum rate of 10¢ per ton.

(c) All moneys collected as inspection fees shall be deposited with the territorial treasurer in the special fund known as the "marketing inspection and agriculture control fund." [L. 1947, c. 84, s. 9.]

[**Sec. 1320.10.**] Section 10. **Violations: penalties.** Every person who violates any provision of this Act or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $100.00 for the first offense and a fine of not less than $100 for each offense thereafter. [L. 1947, c. 84, s. 10.]

Section 11. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **H.B. 690, Act 84.**

Note: § **1351,** see **L. 1947,** c. 80 (F-237) post re plant quarantine stations. §§ **1354-1363** repealed L. 1945, c. 90 (A-30); §§ **1354.01-.10** added by same act, re seeds.

[CHAPTER 21A. SOIL CONSERVATION DISTRICTS.]

Series A-37: ACT 191

An Act to Provide for the Creation of Soil Conservation Districts and Prescribe Their Powers; to Establish the Hawaii Soil Conservation Committee and Define Its Duties; to Enable Such Districts to Adopt Programs to Protect Lands Against Wastage and Erosion; to Provide for the Authorization of a Committee Budget; and for Other Purposes in Connection With Soil Conservation.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1371.01.**] Section 1. **Short Title.** This Act may be known and cited as the Soil Conservation Districts Law. [L. 1947, c. 191, s. 1.]

[**Sec. 1371.02.**] Section 2. **Findings and declaration of policy.** The farm and grazing lands of Hawaii are basic assets of the Territory; it is found that improper land and water use practices have caused and continue to cause or contribute to wastage of land and water resources. It is declared to be the policy of this Act to provide for the conservation and protection of these lands and water resources in the interest of the health, safety, and general welfare of the people of the Territory. [L. 1947, c. 191, s. 2.]

[Sec. 1371.03.] Section 3. **Definitions.** Wherever used in this Act: (1) "District" or "soil conservation district" means a governmental subdivision of this Territory, and a public body corporate and politic, organized in accordance with this Act; (2) "director" means a member of the governing body of a district; (3) "committee" or "soil conservation committee" means the agency created in section 4 of this Act; (4) "land occupier" or "occupier of land" includes both the person, firm or corporation who shall hold title to and, in the case of leased land, the person, firm or corporation who shall be in possession of any lands lying within a district organized, or to be organized, under the provisions of this Act. Each occupier of land lying within a district organized, or to be organized, under the provisions of this Act shall have one vote, **provided** however, each land occupier of more than 100 acres of land lying within a district organized, or to be organized, under the provisions of this Act shall be entitled to one vote for each 100 acres; (5) "due notice" means notice given during a ten-day period by publication or if no means of publication is available by posting at a reasonable number of conspicuous places within the affected area. [L. 1947, c. 191, s. 3.]

[Sec. 1371.04.] Section 4. **Hawaii soil conservation committee.** A. There is hereby created, as an agency of the Territory, the Hawaii Soil Conservation Committee. The committee shall be composed of the president of the board of commissioners of agriculture and forestry, who shall be its chairman, the director of the Hawaii experiment station and the director of the agricultural extension division of the university of Hawaii, as ex officiis members. The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve upon the committee.

B. The committee shall keep a record of its official actions, and may perform such acts, and promulgate such rules and regulations as may be necessary for the execution of its functions. It may employ such employees and agents as it may require, and determine their qualifications and compensation. It may call upon the attorney general of Hawaii for legal services, or employ its own counsel. It may delegate to any member, agent or employee, such powers and duties as it may deem proper. Upon request of the committee, other agencies of the territorial government shall, insofar as available appropriations and resources will permit, assign staff members or personnel to the committee, and make such reports, surveys, or studies as the committee may request.

C. A majority of the committee shall constitute a quorum and the concurrence of a majority of a quorum in any matter shall be required for its determination. The committee shall provide for surety bonds for employees and officers who are entrusted with funds or property.

D. In addition to the duties and powers hereinafter conferred upon the committee, it shall have the authority to: (1) offer appropriate assistance to the directors of districts in carrying out their powers and programs; (2) keep districts informed of the activities of other such districts and facilitate cooperation between them; (3) coordinate district programs so far as that may be done by advice and consultation; (4) obtain the assistance of the United States and of other territorial agencies in the work of such districts; (5) disseminate information throughout the Territory concerning district activities and programs and encourage the formation of districts in appropriate areas. [L. 1947, c. 191, s. 4.]

[**Sec. 1371.05.**] Section 5. **Creation of soil conservation districts.** A. Occupiers of land representing a total of twenty-five or more votes lying within an area proposed to be organized into a district may file a petition with the soil conservation committee asking that such district be organized. The committee shall prescribe the form of such petitions, which shall state: (1) the proposed name of such district, and (2) a general description of the area proposed to be organized as a district.

Where more than one petition is filed covering parts of the same territory, the committee may consolidate the petitions. The area of a district need not be contiguous but shall not include any of the area of any other district.

B. Within thirty (30) days after the filing of such a petition, the committee shall cause due notice to be given of a public meeting to consider the question of the need for the creation of such district, whether local public sentiment is in favor of its creation and the area that should be included within its boundaries. After such meeting, if the committee determines that there is a need for the district and public sentiment favors its creation, it shall define the boundaries for the proposed district. Should the committee deny any such petition to organize a district, subsequent petitions covering the same or substantially the same area may be filed with the committee after six (6) months after the date of the denial of the petition.

C. After the committee has determined that there is need for and local public sentiment is in favor of the creation of a proposed district it shall, within a reasonable time, give due notice

of and hold a referendum upon the question of the creation of the district, and, at the same time, hold an election to elect three directors for such district. Nominating petitions may be filed with the committee to nominate candidates for such directors but must be filed at least ten (10) days prior to the election and must be subscribed by occupiers of lands representing a total of twenty-five (25) or more votes within the proposed district. Land occupiers may sign more than one such petition.

Occupiers of lands lying within the proposed district shall be entitled to vote on the proposition of the creation of the district and in the election of district directors. Such voting shall be by ballots on which shall appear the words "For creation of the——Soil Conservation District", and "Against creation of the——Soil Conservation District", with a square before each proposition and a direction to mark the square before one or the other of the propositions as favored by the voter. The names of candidates for district directors, nominated as herein provided, shall also appear on such ballots with a square before each name and a direction to mark the squares before any three (3) names to indicate the voter's preference. The committee shall issue regulations for the conduct of, and pay all expenses incident to, such referenda and elections.

D. The committee shall, within a reasonable time thereafter, determine whether the operation of the proposed district would be administratively practicable and feasible; **provided** that it shall not have the authority to determine in favor of the creation of the district unless at least a majority of the votes cast in the referendum shall have been cast in favor thereof. In making such determination and in determining the need for a proposed district, the committee shall give due regard to the findings and declaration of policy set out in section 2 of this Act, and to the topography, composition of soils, distribution of erosion, prevailing land use practices within the proposed district, the probable expense of carrying on erosion control operations within the district and other relevant geographical, physical, economic and social factors. If the committee determines in favor of the creation of a district it shall make public the result of the election to elect directors. The three (3) candidates who received the largest number, respectively, of the votes cast in the election, shall be the elected directors for the district and the committee shall appoint two (2) directors to act with the three (3) elected directors as the governing body of the district.

E. To complete the organization of the district, the committee shall present to the secretary of the Territory a statement

setting out the name of the district and its boundaries, and certifying that the procedures prescribed in this Act for the organization of a district have been fully complied with in organizing this district. The statement shall request the secretary to issue a certificate of organization to the district. The secretary shall record the statement in his office and shall issue to the directors of the district a certificate, under the seal of the Territory of Hawaii, of the due organization of the district.

F. After six (6) months after the date of a determination by the committee that the operation of a proposed district would not be administratively practicable and feasible, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid.

G. Petitions for adding territory to an existing district may be filed with the committee and the proceedings herein provided for the organization of a district shall be observed in such case. Where the number of land occupier votes in the area proposed to be added is less than 25, the petition may be filed when signed by a majority of such occupiers and in such case no referendum need be held.

H. Petitions for the consolidation of two or more districts may be filed wth the committee. Such petitions must be signed by a majority of the members of the governing body, or by 25 or more land occupier votes in, each district proposed to be consolidated. In such event the procedures herein provided for organizing districts shall be observed, insofar as they are applicable; **provided** that the votes cast in the referendum on the question of consolidation shall be counted separately for each district and the committee shall not have authority to determine in favor of the proposed consolidation unless a majority of the votes cast with respect to each separate district shall have been cast in favor thereof. The provisions of this section governing the selection of district governing bodies and the completion of the organization of districts shall apply to the selection of a governing body for and the completion of the organization of any new district resulting from a consolidation of districts. The terms of office of the directors of the consolidating districts shall expire and the terms of office of the directors of the new consolidated district shall commence, upon the issuance by the secretary of the Territory of a certificate of the due organization of the consolidated district. Upon such a consolidation, all the property rights and liabilities of the several consolidating districts shall be vested in and assumed by the consolidated district. [L. 1947, c. 191, s. 5.]

[Sec. 1371.06.] Section 6. **Appointment, qualifications and tenure of directors.** The term of office of district directors shall be three (3) years, except that those first appointed shall be designated to serve for terms of one and two years, respectively. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring directors shall have been selected. The directors shall designate a chairman and may, from time to time, change such designation. A majority of the directors shall constitute a quorum and the concurrence of a majority upon any official matter shall be necessary. Directors shall receive no compensation for their services, but shall be entitled to necessary expenses. They may employ such officers and employees as they may require, and fix their compensation, and shall provide for surety bonds for employees or officers who are entrusted with funds. They shall keep a record of proceedings, resolutions, regulations, and orders issued or adopted, and accounts of receipts and disbursements; and shall furnish to the committee copies of such documents, instruments or information concerning their activities as the committee may request. [L. 1947, c. 191, s. 6.]

[Sec. 1371.07.] Section 7. **Powers of districts and directors.** A district organized under this Act, and the directors thereof, shall have, in addition to other powers granted in other sections of this Act, the following powers; (1) to provide for and encourage surveys, investigations, and research relating to soil and water conservation and to publish and disseminate information concerning such subjects; (2) to provide for and encourage demonstrations relative to the control and prevention of erosion and the conservation of soil and water resources, and carry out preventive and control measures, on publicly owned lands within the district with the consent of the agency having jurisdiction thereof, and on other lands with the consent of the occupier of the lands; (3) to cooperate, or enter into agreements with, and to furnish financial or other aid, including machinery, equipment, fertilizer, seeds, and other material, to any agency or any occupier of lands within the district, for carrying on soil and water control conservation and operations, subject to such conditions as the directors may deem necessary; (4) to acquire property, real or personal, or rights or interest therein; to maintain, administer, and improve such property, receive income from it, and expend such income in carrying out the purposes of this Act; and to sell, lease, or otherwise dispose of any of such property; (5) to construct, improve, and maintain any structures necessary for carrying out the purposes of this Act; (6) to develop plans for the conservation of soil and

water resources and the control and prevention of erosion within the district, and to publish or otherwise bring them to the attention of district land occupiers; (7) to accept contributions in money, services, materials or otherwise from any source, and to use or expend them in carrying on its operations; (8) to sue and be sued; to have a seal, which seal shall be judicially noticed; to make and execute any necessary contracts or other instruments; (9) as a condition to the extending of benefits, or the performance of work upon lands under this Act, the directors may require land occupiers to contribute money, services, materials, or otherwise to any operations conferring such benefits, and may impose any other reasonable conditions therefor. [L. 1947, c. 191, s. 7.]

[Sec. 1371.08.] Section 8. **Territorial agencies to cooperate.** Agencies of the territorial government, or other governmental subdivision of the Territory, which have jurisdiction over publicly-owned lands lying within any soil conservation district, may cooperate with such district in the effectuation of programs and operations of such district. District directors shall be given access to enter and perform work upon such lands. [L. 1947, c. 191, s. 8.]

[Sec. 1371.09.] Section 9. **Discontinuance of districts.** At any time after five (5) years after the organization of a district under this Act, any occupiers of land representing twenty-five (25) or more votes lying within such district may petition the soil conservation committee to terminate the existence of the district. The committee may conduct such meetings and hearings upon such petition as may be necessary and, within sixty (60) days after the filing of such a petition, shall hold a referendum upon such proposal. All occupiers of lands within the district shall be eligible to vote in such referendum.

After such referendum the committee shall determine whether the continued operation of the district is necessary or practicable and feasible. The committee shall not have authority to determine in favor of the continued operation of the district unless a majority of the votes cast in the referendum were in favor of such continued operation. If the committee determines in favor of the discontinuance of the district, it shall certify such determination to the district directors and to the secretary of the Territory. The secretary shall issue to the directors a certificate of dissolution and record a copy of such certificate in his office. Upon receipt of such certificate the directors shall terminate the affairs of the district. The directors shall dispose of all property belonging to the district at public auction and pay over the proceeds into the territorial

treasury, and render to the soil conservation committee, a full accounting of such properties and proceeds of the sale. All contracts theretofore entered into, to which the district is a party, shall remain in force and effect for the period provided in such contracts. The committee shall be substituted for the district as party to such contracts. The committee shall not entertain petitions for the discontinuance of any district more often than once in five (5) years. [L. 1947, c. 191, s. 9.]

[**Sec. 1371.10.**] Section 10. **Budget.** The Hawaii soil conservation committee shall submit to the director of the bureau of the budget, biennially, the budgetory estimates and information required by chapter 25, Revised Statutes of Hawaii 1945, and shall include therein estimates of the financial requirements of the committee. [L. 1947, c. 191, s. 10.]

[**Sec. 1371.11.**] Section 11. **Separability Clause.** If any provisions of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. [L. 1947, c. 191, s. 11.]

[**Sec. 1371.12.**] Section 12. **Inconsistency with other Acts.** Insofar as any of the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling. [L. 1947, c. 191, s. 12.]

Section 13. **Effective date.** This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 966, Act 191.**

Title 3: ATTORNEY GENERAL'S DEPARTMENT.

Series A-38: ACT 246

An Act to Create in the Department of the Attorney General a Bureau of Civil Identification, Providing for the Civil Registration and Identification of Persons in the Territory; Transferring to the Department of the Attorney General the Powers, Duties and Functions of the Bureau of Crime Statistics and Identification; Prescribing Penalties for Violations of This Act and of Rules Promulgated Hereunder; Making Appropriations for the Purposes of This Act; Repealing Sections 3968 to 3971, Inclusive, of the Revised Laws of Hawaii 1945, and Amending Other Laws Inconsistent Herewith to Conform Hereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title 3 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto two new chapters to be numbered chapter 23.01 and chapter 23.02 to read as follows:

"CHAPTER 23.01. BUREAU OF CIVIL IDENTIFICATION.

Sec. 1540. Bureau of civil identification; director. There is hereby created in the department of the attorney general of the Territory a bureau to be known as the 'bureau of civil identification', hereinafter called the bureau.

The attorney general shall appoint a director of the bureau, hereinafter called the director, who shall receive such salary for his services as shall be authorized by law, and who, under the direction and control of the attorney general, shall administer the affairs of the bureau and carry out the provisions of this chapter. The director shall also perform such duties as shall be required by the attorney general, pursuant to this chapter. The director, with the approval of the attorney general and in conformity with chapter 2, may appoint such subordinates, at such compensation, within the limits of available appropriations therefor and in conformity with chapter 3, or without compensation, as may be necessary or proper to carry out the provisions of this chapter, and, with the approval of the attorney general, may delegate to such subordinates such of his powers and duties as may be necessary for the efficient administration of this chapter.

Whenever in this chapter it is provided that the director is authorized or required to do or perform any act

or duty, the attorney general shall be deemed to have power to do or perform such act or duty, unless such construction would lead to absurdity or impossibility, and any such action so taken by the attorney general shall supersede action thereon by the director. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.01. Oaths and investigations. The director and each of his authorized subordinates shall have the power to administer oaths and to require and take the oral or written statements under oath of any person in connection with any information validly required by such director or his subordinates under this chapter or any rule or regulation issued hereunder. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.02. Rules and regulations. For the purpose of carrying out any provision of this chapter the attorney general shall have the power, pursuant to law and with the approval of the governor, to prescribe rules and regulations having the force and effect of law. Such rules and regulations shall be promulgated by publishing the same in a newspaper of general circulation in the Territory. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.03. Powers and functions of bureau. It shall be the duty of the bureau to register and issue certificates of identification to all persons in the Territory applying for the same in accordance with the requirements of this chapter. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.04. Other government employees to cooperate. With the approval of the head of the department concerned, any officer or employee of any county or of the Territory may be appointed in the manner provided by section 1540 to act in such capacity and to perform such duties as shall be required by such order in connection with the administration of this chapter, with or without additional compensation. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.05. Geographical subdivisions; regional and other officers. The director may subdivide the Territory into such enumeration tracts or other subdivisions with such designations, and with such regional officers, registrars, assistants, enumerators and other employees, as the director shall deem necessary or proper for the efficient administration of the registration required by this chapter. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.06. Registration and issuance of certificates; fee. Every person who shall be residing or present in the Territory on or after the effective date of this chapter, may be registered, and have issued to him a certificate of identification, under this chapter.

Application for such registration shall be made in person by any adult person or minor over the age of sixteen years. In the case of a minor under the age of sixteen years, the application shall be made in his behalf by the parent or other person in loco parentis of such minor. In the case of an incompetent person, the application shall be made by the person having the custody or control of or maintaining such incompetent person. A fee of one dollar shall be paid by each such applicant, which fee, however, may be waived by the director in cases of extreme hardship. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.07. Information to be secured. The bureau shall require, collect, secure and make and preserve a written record of the following items of information so far as it is practicable to secure the same, with respect to each applicant for registration:

(a) The name of the person applying to be registered (hereinafter called the 'registrant' or 'applicant'), the street and number or address of his place of habitation in the Territory, and his residence and business telephone numbers, if any;

(b) Whether he has ever been fingerprinted and, if so, where, when and why;

(c) His occupation and any pertinent data relating thereto;

(d) His nationality or racial extraction,

(e) His citizenship status;

(f) The date and place of his birth;

(g) His personal description including sex, height, weight, hair, eyes, complexion, build, scars and marks;

(h) The fingerprints of both hands of the registrant; **provided,** that this requirement shall not apply to minors until they reach the age of six years; and

(i) The name, relationship and address of the nearest relative or other person to be notified in case of sickness, accident, death, emergency or need, of each person registered, if such notification is desired. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.08. Procedure. All information required by the preceding section shall, as far as practicable, be secured by employees of the bureau by personal interviews with the persons registered or responsible members of the same household. It shall be the duty of every person giving information in behalf of any applicant under this subtitle to answer truthfully all questions and furnish all information within the possession or knowledge of such person which may be asked or requested by such employee within the scope of the requirements of this chapter.

Special provisions may be made by rules of the attorney general, (a) for the registration of inmates, employees and others residing at or in hospitals, jails, prisons, asylums, homes for the aged, indigent homes and other institutions, and (b) for the registration of other persons, whenever special treatment is required so as to minimize hardship or inconvenience attendant upon the registration contemplated by this chapter. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.09. Identification certificates; form. The bureau, after taking the fingerprints of each registrant as provided in this chapter (except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this chapter, shall issue to each such registrant a certificate of identification in such form, and with such information, as the director shall deem necessary and practicable, such certificate to contain, among other things; a distinctive serial number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, the signature of the officer or employee issuing the certificate (to be designated as the 'registrar'), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the director shall deem necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, his previous certificate shall be cancelled and a new certificate shall be issued under the same serial number, bearing his fingerprints. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.10. Identification certificates not to be altered, etc.; duties of holder; lost certificates. No person, except agents of the bureau acting pursuant to its authority, shall alter, deface or destroy any certificate of identification. Except as specifically authorized by this section or the rules and regulations of the attorney general, no registrant shall loan or give his certificate of identification to any other person, and no person shall use the certificate of identification of any other person. Any registrant whose certificate of identification is stolen or otherwise lost, or altered, defaced or destroyed, shall report such fact to the nearest office of the division within forty-eight hours after discovering such fact, and may at any time apply for a duplicate certificate of identification in such manner as the director may require, which duplicate shall be issued by the bureau upon being satisfied as to such loss, alteration, defacing or destruction and the payment of a fee of one dollar, and shall be distinctively marked as a duplicate. Such fee may be waived by the director where the requirement thereof would impose extreme hardship. In the case of an altered or defaced certificate of identification, the certificate, if available, shall be surrendered by the registrant and cancelled by the bureau. Any person finding or coming into the possession of the certificate of identification of any other person shall promptly return or deliver the same to the owner thereof or to the nearest office of the bureau. Any person finding his own lost certificate after having received a duplicate certificate shall promptly deliver the previously lost certificate to the bureau. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.11. Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc. If, after registration, the name of any registrant shall be or have been legally changed by marriage, divorce, adoption, legitimation, order of the governor, or other legal means, or if there shall be a change in the registrant's citizenship status, it shall be the duty of such registrant or other person in charge of such registrant (in the case of a minor or incompetent person) within thirty days after such change of name or citizenship status, to report such change and present his certificate of identification to the bureau, and to pay to the bureau a fee of one dollar (which fee, however, may be waived by the bureau in cases of extreme hardship). The bureau upon being satisfied as to such

change and receiving payment of such fee, shall cancel such certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of such bureau.

If any error has been made in any item of information contained in the records of the bureau or the certificate of identification concerning any registrant, the bureau, of its own motion or upon application by the registrant, and upon receipt of evidence satisfactory to it that such error has been committed, may, with the approval of the director or his specially authorized representatives, correct such error and, in such case, shall make appropriate changes or notations stating such error and the correct information upon the records of the bureau and the certificate of identification.

In case any item of personal information originally correct with respect to any registrant shall change after registration, such change may, if material, be registered by the bureau and the records and certificate of identification may be altered to conform thereto, upon receipt by the bureau of satisfactory evidence as to such change and the approval of the director or his specially authorized representative and the payment of a fee of one dollar (which fee, however, may be waived by the bureau in cases of extreme hardship). [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.12. Exemptions. The requirements of this chapter as to fingerprinting (except with respect to the fingerprints upon the certificate of identification) may be waived by the director as to any individual whose fingerprints are otherwise available, upon the making of proper cross references upon the records of the bureau. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.13. Forms. The director shall have power to prepare, prescribe and furnish, in conformity with this chapter, forms for questionnaires, notices, fingerprint cards or forms, certificates of identification, instructions, and all other forms necessary or proper for the prompt, efficient and adequate execution of the functions of the bureau set forth in this chapter. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.14. Custody and use of records; information confidential, penalties. (a) All information and records acquired by the bureau under this chapter shall be confidential. All such records shall be filed in an appropriate office in the custody and under the control of the bureau, which shall at all times be kept separate from any similar records relating to the identification of criminals. Such

information shall be available only to authorized persons in the bureau, and such other persons or agencies as the attorney general, with the approval of the governor, shall authorize, under such restrictions as the attorney general, with such approval, shall prescribe. Such information and records shall not be subject to subpoena or other court process except upon approval of the governor.

(b) No officer or employee of the bureau shall divulge any information concerning any registrant acquired from the records of the bureau or acquired in the performance of any of his duties under this chapter to any person not authorized to receive the same pursuant to this chapter or pursuant to the orders of the attorney general, approved by the governor, made under subsection (a). No person acquiring from the records any information concerning any registrant shall divulge any such information to any person not so authorized to receive the same. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.15. Violations; penalties. Any person who shall: (a) knowingly furnish any false or untruthful information or answer, validly required under this chapter; or (b) violate or without adequate excuse fail to comply with any requirement of this chapter or of any rule or regulation issued pursuant thereto, which is legally applicable to him, and for which no other penalty is specifically prescribed by this chapter; or (c) without adequate excuse, fail to perform any act lawfully required to be performed by him pursuant to this chapter or such rules and regulations: shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $500.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment; **provided** that failure of a person to report his lost, stolen or destroyed certificate, or to return to the bureau his lost certificate when he has secured a duplicate and finds the lost certificate for which such duplicate was issued, shall be punishable by fine of not more than $5.00.

'Adequate excuse', as used in this section, shall mean inability to comply with any such requirement or perform any such act, due to any cause beyond the control of the individual concerned and not due to his malfeasance, nonfeasance or gross negligence. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.16. Civil identification fund. There is hereby created in the treasury of the Territory a revolving fund to be known as the 'civil identification fund'. All moneys

received by the bureau under this chapter shall be paid into said fund and shall be available, together with any other moneys appropriated for the purposes of said bureau, for expenditure for any of the purposes of this chapter, upon vouchers approved by the attorney general or by the director if duly thereunto authorized by the attorney general. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.17. Uniformity of identification certificates issued by bureau or any police department. In order to insure uniformity in such certificates, after the effective date of this chapter, no police department in this Territory shall issue any certificate of identification to others than police officers as such, except in conformity with the rules and regulations of the bureau, and as its agent, and any fees collected by any such police department for such certificates shall by it be paid over to the bureau as required by such rules and regulations. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1540.18. Continuation of Hawaii Defense Act requirements; transfer and custody of existing records, funds, etc. In so far as concerns registration and other matters related thereto covered by this chapter, this chapter shall be construed as a continuation of the Hawaii Defense Act as amended and any person who has been heretofore duly registered under Hawaii Defense Act Rule No. 14 and other Hawaii Defense Act rules amendatory thereof, or supplemental thereto, and who still retains a certificate of identification issued thereunder, shall be deemed to have been duly registered in compliance with the requirements of this chapter, except as to lost certificates of identification, changes of status or other changes required to be reported to the bureau of identification. The serial number of any such person previously registered under said rules shall, unless otherwise expressly required by rules of the attorney general, remain unchanged upon any certificate or duplicate certificate issued to such person under this chapter. All records, furniture and equipment in the custody of the director of registration mentioned in Hawaii Defense Act Rule No. 146, or subject to the control of said director or of the governor under said rule, and all moneys in the fund created by said rule, are hereby transferred to the bureau of civil identification created by this chapter." [L. 1947, c. 246, pt. of s. 1.]

"CHAPTER 23.02. BUREAU OF CRIME STATISTICS.

Sec. 1541. Wardens and police heads to use identification systems. The warden of the territorial prison and the chiefs of police of the several counties are empowered and directed to employ and put into force and effect such systems of identification of prisoners and persons suspected of crime or of criminal intent and for the recording and compilation of crime statistics as the attorney general shall from time to time prescribe under this chapter. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1541.01. Bureau of crime statistics; powers and functions; director. The attorney general is authorized and directed to organize and maintain a bureau to be known as the 'bureau of crime statistics and identification', which shall be operated under the direction of the director of the bureau of civil identification, who shall, for the purposes of this chapter be known as the director of crime statistics and identification, subject to the direction and control of the attorney general. The attorney general, through the bureau, shall select and enforce systems of identification of prisoners and persons suspected of crime or of criminal intent and for the recording and compilation of statistics relating to crime. The director shall establish systems of identification and provide for the collection of data and statistics relating to crime in manner as nearly as practicable according to the methods generally used in prisons and places of detention throughout the United States. The attorney general shall appoint an executive officer who shall act as chief of the bureau, receiving such salary for his services as shall be authorized by law, and who, under the direction and control of the attorney general, shall instruct such employees of the prisons and places of detention, sheriffs, and others charged with the preservation of the peace and well-being of society as the attorney general may deem necessary or proper, in such systems of identification and collection and compilation of crime statistics as the attorney general may direct. Such executive officer shall be a citizen of the United States and shall have resided in the Territory for at least three years prior to his appointment.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of such systems of identification and statistics in their respective jurisdictions; **provided** that all such expenses in connection with prison matters exclusively within the control of the Territory shall be borne by the Territory.

Such systems shall be uniform throughout the Territory, shall be continuous in operation and shall be maintained as far as possible in such manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of such statistics.

The chief of the bureau shall also perform such other duties as shall be required by the attorney general.

The attorney general, through the bureau, shall keep a uniform record of the work of the courts, prosecuting officers, the police and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable (a) for the study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law and (b) for the examination of the records of the operations of such officers and the results thereof.

The chief of the bureau, with the approval of the attorney general, shall have power to prescribe and establish and to change, from time to time, forms to be followed in keeping records and in making reports to the bureau. It shall be the duty of all courts and the judges and other officers thereof and of all prosecuting officers, chiefs of police, sheriffs and other agencies and officers for the prevention or detection of crime and for the enforcement of law to use such forms, keep such records and make such reports to the bureau as may be so required.

All fingerprints and photographs of persons against whom no charges of crime are preferred or against whom charges of crime are preferred and no convictions secured shall, when so requested in writing by such persons and within sixty days after such written request, be delivered to such persons or destroyed, unless it shall have been ascertained, from federal records or otherwise, that the persons concerned has a record of prior conviction or is a fugitive from justice.

Any person having the custody and control of such fingerprints and photographs who knowingly violates the provisions of the preceding paragraph shall be guilty of a misdemeanor and shall be punished by a fine of not more than $100.00 or by imprisonment for not more than 1 year, or by both fine and imprisonment. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1541.02. Reports to county clerk. Whenever and as often as the bureau of crime statistics of the Territory shall receive any record of the conviction of any citizen of eighteen years of age or over in the United States District Court for the District of Hawaii of any crime punishable by imprisonment for more than 1 year, whether such penalty is imposed or not, the director of the bureau shall within 10 days make and transmit a certificate of such information to the clerk of each county with a sufficient identifying description of such citizen. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1541.03. Wardens and police heads to furnish records, etc. The warden of the territorial prison and the chiefs of police of the several counties are charged and ordered and compelled to furnish to each municipal subdivision, and to the Territory, copies, duplicates and records taken by them, or under their direction, of such matters and things as are contemplated and included in sections 1541 to 1541.03, inclusive. [L. 1947, c. 246, pt. of s. 1.]

Sec. 1541.04. Repeal of sections 3968 to 3971, inclusive; effect, transfer of records, funds, etc. Sections 3968 to 3971, inclusive, of said Revised Laws are superseded by this chapter and are hereby repealed; **provided** that this chapter shall be construed as a continuation of said sections hereby repealed and not as a new enactment. All records, furniture and equipment of the bureau of crime statistics and identification, and all funds available for expenditure by or for the purposes of the bureau of crime statistics and identification under said sections 3968 to 3971, inclusive, including appropriations made by any law enacted at the regular session of 1947 of the legislature of the Territory of Hawaii, are and shall be transferred to the department of the attorney general for expenditure for the purposes of this chapter." [L. 1947, c. 246, pt. of s. 1.]

Section 2. There is hereby appropriated from the general revenues of the Territory for the period commencing with the effective date of chapter 23.01 enacted by this Act and ending June 30, 1949, the sum of three thousand six hundred and fifty ($3,650.00) dollars, which together with money in the identification fund provided for by said chapter, shall be expendable upon vouchers approved by the attorney general or by the director of the bureau of civil identification created by said chapter, if thereunto duly authorized by the attorney general.

Section 3. All laws or parts of law inconsistent with this Act are amended to conform to this Act. The amendment or repeal by this Act, or by any other Act enacted or taking effect on or after the date this Act becomes law, of the Hawaii Defense Act or of any Hawaii Defense Act rule relating to registration and identification of civilians, or of any other laws or rules specifically mentioned in this Act, shall not affect the liability of any person to prosecution or punishment for any offense committed under any of said laws, rules or regulations so amended or repealed, prior to such amendment or repeal, but all such offenses may be prosecuted and punished in the same manner and to the same extent as if such laws or rules had not been amended or repealed.

Section 4. Upon the effective date of this Act, any employees of the division of registration (provided for by said Hawaii Defense Act Rule No. 146), or of the bureau of crime statistics and identification (created by sections 3968 to 3971, inclusive, of said Revised Laws), then in service, including the director thereof, shall be transferred into the service of the appropriate bureau created by this Act, and shall not suffer any loss of seniority, prior service credit, vacation, sick leave or other employee benefits or privileges by reason of such transfer, subject, however, thereafter to any changes in status made pursuant to chapters 2 and 3 of said Revised Laws.

Notwithstanding any other provision of this chapter to the contrary the fingerprints of any person which are in the possession of the territorial division of registration and which were secured by said division under the compulsion of Hawaii Defense Act Rule No. 14, as amended, shall, upon written application filed with the division of registration or its successor under this Act be returned to such applicant.

Section 5. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 219, Act 246.**

Title 4: AUDIT AND BUDGET.
Chapter 24. AUDIT DEPARTMENT; DUTIES.

Series A-39: ACT 147

An Act to Provide for the Destruction of Old Territorial Warrants, Bonds and Interest Coupons.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1603.01.**] Section 1. [**Destruction of warrants, bonds, etc.**] The treasurer and auditor of the Territory of Hawaii are hereby authorized and empowered to supervise and conduct the burning and destruction of all warrants of the Territory of Hawaii and all territorial bonds and interest coupons which have been paid and which bear any date ten years prior to the date of burning and destruction. [L. 1947, c. 147, s. 1.]

[**Sec. 1603.02.**] Section 2. [**Examination before destruction.**] Before the burning and destruction of such warrants, bonds and interest coupons the auditor of the Territory shall conduct such examination and investigation as is necessary to determine that the warrants, bonds and interest coupons to be burned and destroyed bear any date ten years prior to the date of burning and destruction. [L. 1947, c. 147, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **H.B. 918, Act 147.**

Title 5: EDUCATION.
Chapter 28. PERSONNEL OF PUBLIC AND PRIVATE SCHOOLS.
Sec. 1758.01, amended **L. 1947,** c. 208 (A-4), ante.
Sec. 1760, amended **L. 1947,** c. 208 (A-4), ante.

Chapter 30. SCHOOLS AND ATTENDANCE GENERALLY.

Series A-40: ACT 224

An Act to Amend Section 1823 of the Revised Laws of Hawaii 1945, Relating to Instruction for Pre-School Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1823** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the phrase "January first" in the third line of said section 1823 the pharse "December thirty-first".

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 534, Act 224.**

Note: As so amended, § 1823 reads:

Sec. 1823. Preschool children. The department is authorized to expend funds appropriated for the public schools to promote a program of instruction for preschool children who have attained the age of five years on or before December thirty-first of each year and to continue such programs of instruction until such children have reached the age that permits them to be registered in the regular receiving grades of the public schools. The expenditure of funds for the purposes of said program shall be distributed throughout the Territory on a basis to be determined by the commissioners of public instruction. [L. 1943, c. 220, s. 1; R. L. 1945, s. 1823; am. L. 1947, c. 224, s. 1.]

Note: § **1824** was amended L. 1945, c. 126 (A-34); § **1827** was amended L. 1945, c. 227 (A-35); § **1832** was amended L. 1945, c. 156 (A-36); § **1833** was repealed L. 1945, c. 156 (A-36); § **1835** was amended L. 1945, c. 21 (A-37); § **1892.01** was added L. 1945, c. 219 (A-38); § **1893** was amended L. 1945, c. 219 (A-38); §§ **1894-96** were amended L. 1945, c. 117 (A-39).

Chapter 34. UNIVERSITY OF HAWAII.

Sec. 1950, amended **L. 1947,** c. 208 (A-4) ante.

Series A-41: ACT 62

An Act Exempting Blind Persons from Any Tuition Fee for Their Attendance at the University of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1950.01.**] Section 1. [**Blind person, exempt from fees.**] Every blind person shall be exempted from any obligation to pay any tuition fee for his attendance as a student at the University of Hawaii, any law to the contrary notwithstanding. The board of regents, University of Hawaii, is hereby directed to waive entirely in reference to any blind person any requirement which unless so waived would otherwise require such blind person to pay a tuition fee for attendance as a student at the University of Hawaii. [L. 1947, c. 62, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **S.B. 406, Act 62.**

Note: See J. R. 13, post, re settling dispute on condemnation of land by university. §§ **1942-43,** amended L. 1945, c. 135 (A-40); § **1947,** amended L. 1945, c. 135 (A-40); § **1962,** see **L. 1947,** c. 136 (F-223), post.

Series A-42: ACT 141

An Act to Add Chapter 34.6, Comprising Sections 1991.01 to 1991.13, Inclusive, to the Revised Laws of Hawaii 1945, Relating to the University of Hawaii and the Acquisition, Purchase, Construction, Reconstruction, Improvement, Betterment, Extension, Repair, Upkeep, Replacement, Maintenance, Operation and Administration of University Housing Units, University Athletic Units, and Other Undertakings in Furtherance of the Purposes of the University; Authorizing and Regulating the Obtaining of Loans and Issuance of Revenue Bonds for the Financing Thereof; Providing for the Payment of Such Loans and Revenue Bonds, and Rights with Relation Thereto; Creating the University Project Fund and Making an Appropriation of Moneys Therein; and Specifying the Powers and Duties of the Board of Regents of the University of Hawaii, the Territorial Treasurer, and the Territorial Auditor With Relation Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 34.6, comprising sections 1991.01 to 1991.13, inclusive, is hereby added to the Revised Laws of Hawaii 1945, to read as follows:

"CHAPTER 34.6 UNIVERSITY PROJECTS

Sec. 1991.01. Definitions. Whenever used in this chapter:

'University' means the university of Hawaii.

'Board' means the board of regents of the university of Hawaii, which, for the purposes of this chapter, is declared to be a political corporation within the meaning of that term as used in section 562d of title 48 of the United States Code.

'University housing unit' means a structure or structures suitable for the housing of and use and occupancy as a dwelling by students enrolled in the university, members of the faculties of the university, persons temporarily visiting the university at the invitation or request of the board, employees of the university, and members of the families of any such persons, for the use and occupancy of which a fee or rent is charged. A university housing unit includes, but is not limited to, dormitories, apartments and other multiple unit buildings, houses and other single unit buildings, and all land, fixtures, appurtenances, improvements, utilities, equipment and furnishings necessary or convenient for the use and occupancy of such structures as dwellings.

'University athletic unit' means athletic facilities of every nature devoted either exclusively to use by the university, including its students, faculties, guests, employees, and their families, or both to university and non-university uses, for the enjoyment or utilization of, or for the privilege of observance of athletic contests or exhibitions conducted in or by means of, which facilities a fee is charged. A university athletic unit includes, but is not limited to, gymnasium, field house, stadium, playing field, baseball diamond, courts suitable for tennis, volley ball and basketball, swimming and diving pools, and all land, fixtures, appurtenances, improvements, utilities, equipment and furnishings necessary or convenient for the enjoyment or utilization of such athletic facilities, or for the observance of athletic contests or exhibitions.

'University project' means a university housing unit, university athletic unit, and any other undertaking constructed, maintained, or both, by the university in furtherance of the purposes of the university, and for the payment of all or part of the cost of construction, cost of maintenance, or both, of which undertaking a fee, rent, or charge is received. A university project shall be a public improvement or public undertaking within the meaning of section 562d of title 48 of the United States Code.

'Revenue of the university project' means all revenues derived from the use of enjoyment of the facilities of a particular university project.

'Revenue of the university' means all revenues of whatever nature received by the university, or which it is entitled to receive, other than (a) general appropriations, (b) tuition fees, and (c) gifts the terms of which preclude their being used for payment of the cost of construction, cost of maintenance, or both, of a university project.

'Construction' includes acquisition, purchase, construction, reconstruction, improvement, betterment and extension; 'construct' includes acquire, purchase, construct, reconstruct, improve, better and extend.

'Maintenance' includes repairs, upkeep, replacement, maintenance, operation and administration; 'maintain' includes repair, keep up, replace, maintain, operate, and administer.

'Cost of construction' includes all costs and estimated costs of the preparation and issuance of revenue bonds and the obtaining of a loan, and all costs and estimated costs of construction of a university project, and without limiting the foregoing, includes engineering, architectural, supervisory,

inspectional, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money obtained by loan or through the issuance of revenue bonds, or both.

'Cost of maintenance' includes all costs and estimated costs of the maintenance of a university project, and without limiting the foregoing, includes all salaries, wages and fees of officers, employees and contractors of the board engaged in the maintenance of a university project, the cost of all supplies and equipment, and all operational and administrative expenses.

'Reserves' means reserves required or permitted in the covenants in the resolution or resolutions of the board authorizing the obtaining of loans or issuance of revenue bonds under this chapter. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.02. Powers of board. In addition to the powers which it now possesses, the board shall have power to:

(a) Construct and maintain university projects;

(b) Prescribe and collect rents, fees and charges for the use or enjoyment of any of the facilities of any university project;

(c) With the approval of the governor, borrow money, issue revenue bonds, or both, to finance in whole or in part the cost of construction, or maintenance, or both, of any university project; **provided,** that the total indebtedness incurred by the board under this chapter, outstanding at any one time, shall not exceed $5,000,000.00;

(d) Pledge to the punctual payment of such loans and revenue bonds, and interest thereon, the revenue of the university project or projects for the construction and/or maintenance of which the loan has been obtained or the bonds issued, and the revenue of other or all university projects, in an amount sufficient to pay such loans, bonds, and interest as the same shall become due, and to create and maintain reasonable reserves therefor;

(e) Advance such moneys of the university, not otherwise required, as are necessary to pay the expenses incurred in obtaining the initial loan or in making the preparations for the initial issuance of revenue bonds under this chapter, and to take any other action necessary or proper for carrying into execution and administering the provisions of this chapter, including providing for the full utilization of university projects in every way conducive to the furtherance of any or all of the purposes of the university. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.03. Authorization of university projects, loans, and revenue bonds. Authorization of construction, maintenance, or both, of a university project or projects, authorization for obtaining loans, and authorization for issuance of revenue bonds under this chapter shall be by resolution or resolutions of the board. The resolution may be adopted at the same meeting at which it is introduced by a majority of all the members of the board then in office and shall take effect immediately upon adoption. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.04. Revenue bonds. Revenue bonds shall be issued in the name of the board, shall bear interest at such rate or rates not exceeding six per centum per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty years from their respective dates, or may mature in substantially equal annual installments, the last installment to mature not later than thirty years from the date of the issue of the series, may be payable at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution authorizing the issuance of the bonds, or subsequent resolutions, may provide. Revenue bonds shall be sold at not less than par and accrued interest, and may be sold at private sale to the United States, or any agency, instrumentality or corporation thereof, to the Territory, or any political subdivision, agency, instrumentality or corporation thereof, and to any person or group of persons offering to purchase all or a major portion of the bonds of a particular issue. Unless sold at private sale, the revenue bonds shall be sold at public sale after notice of such sale published once at least five days prior to such sale in a newspaper published in the Territory and in a financial newspaper published in the cities of New York, Chicago, or San Francisco. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the board may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. The bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law, constituting chapter 173.

It shall be legal for this Territory and any of its political subdivisions, or any political or public corporation, includ-

ing the employees' retirement system of the Territory, or any instrumentality of the Territory, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this Territory, or for any executor, administrator, guardian, trustee or other fiduciary, or any educational, charitable, or eleemosynary institution to invest their funds or moneys in their custody in the revenue bonds issued under this chapter. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.05. Loans. Loans shall be made in the name of the board, shall bear interest at such rate or rates not exceeding six per centum per annum, payable semi-annually, may mature at such time or times not exceeding thirty years from the date of their respective dates of authorization, may be payable at such place or places, may be subject to such terms of retirement, may be executed in such manner and evidenced by such instruments, may contain such terms, covenants and conditions as the resolution authorizing the obtaining of the loan, or subsequent resolutions, may provide. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.06. Covenants in resolution authorizing loan or revenue bonds. Any resolution or resolutions authorizing the obtaining of loans or the issuance of revenue bonds under this chapter may contain covenants as to: (a) the purpose or purposes to which the proceeds of the loan or of the sale of the revenue bonds may be applied and the use and disposition thereof; (b) the use and disposition of the revenue of the university project or projects for the construction and/or maintenance of which the loan is obtained or revenue bonds are issued, the use and disposition of the revenue of all university projects, and of the revenue of the university, including the creation and maintenance of reserves and the investment of moneys in such reserves; (c) the use and disposition of the proceeds of the sale of any university project, or part thereof; (d) the construction and maintenance of any university project other than the university project or projects for the construction and/or maintenance of which the loan is obtained or revenue bonds are issued; (e) the obtaining of other or additional loans or the issuance of other or additional revenue bonds payable either from the revenue of the university project or projects for the construction and/or maintenance of which the loan is obtained or revenue bonds are issued or payable from the revenue of other university projects; (f) the maintenance of the university project, including the creation by the board of such supervisory positions, which

shall not be subject to the provisions of chapters 2 and 3, as are necessary to facilitate the obtaining of loans or issuance of revenue bonds by ensuring the adequacy of revenues; (g) the insurance to be carried on university projects and the use and disposition of insurance moneys; (h) books of account and the inspection and audit thereof; and (i) the terms and conditions upon which the holders of bonds, the holders of instruments evidencing the obligation to repay loans, or any proportion of such holders, or any trustee thereof, shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the university project or projects, maintain them, prescribe rents, fees and charges, and collect, receive, and apply all revenue thereafter arising therefrom in the same manner as the board itself might do, but the receiver shall have no power, nor be granted any power, to utilize, or permit the utilization of, any university project other than in a manner consistent with and in furtherance of the purposes of the university. The provisions of this chapter and any such resolution or resolutions shall be a contract with the holders of instruments evidencing the obligation to repay moneys loaned and the holders of bonds issued under this chapter, and the duties of the board and any such resolution or resolutions shall be enforceable by any bond holder or holder of an instrument evidencing the obligation to repay a loan by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.07. Validity of bonds and evidence of loan. Revenue bonds issued under this chapter and instruments evidencing the obligation to repay loans made under this chapter shall bear the signatures of the chairman and executive officer of the board. Revenue bonds and such instruments bearing the signature of officers in office at the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers. The validity of the loan, of the bonds, or the instruments evidencing the obligation to repay the loan shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the construction or maintenance of the university project or projects for which the money was loaned or the bonds issued. The resolution authorizing the obtaining of a loan or the issuance of revenue bonds

may provide that the instruments evidencing the obligation to repay the loan or the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.08. Lien of loans and bonds. Each loan obtained under this chapter and all revenue bonds of the same issue shall, subject to the prior and superior rights of outstanding revenue bonds, loans, claims or other obligations, have a prior and paramount lien on the revenue of the university project or projects for the construction and/or maintenance of which the loan has been obtained or bonds have been issued, over and ahead of all bonds of any issue payable from such revenue which may be subsequently issued, and over and ahead of any loans, claims or other obligations of any nature against the revenue subsequently arising or subsequently incurred. All revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, of sale, of execution, of delivery, or of maturity date, by a lien on the revenue in accordance with the provisions of this chapter and the resolution or resolutions authorizing the bonds. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.09. Loans and bonds not territorial obligations. No person loaning money under this chapter, and no holder or holders of any instruments evidencing the obligation to repay the loan, or of any revenue bonds issued under this chapter shall ever have the right to compel any exercise of the taxing power of the Territory to pay such loans or bonds, or interest thereon. The obligation to repay money loaned under this chapter, instruments evidencing the obligation, and the bonds issued under this chapter shall not be considered an indebtedness within the meaning of section 55 of the Organic Act, nor shall such obligation, instruments or bonds constitute an indebtedness within the meaning of any other debt limitation or restriction. Each instrument evidencing the obligation to repay a loan and each revenue bond shall recite in substance that the obligation or bond, respectively, including interest thereon, is payable from the revenue pledged to the payment thereof, and that the obligation and the instruments evidencing the obligation, or the bond does not constitute a debt of the Territory within the meaning of any limitation of law. [L. 1947, c. 141, pt. of s. 1.]

(NOTE: The last word "evidencing" in the eighth line of the above section was changed from "evidenc-" which appears in the orlginal: obvious clerical error.)

Sec. 1991.10. University projects to be self-supporting. The board shall prescribe and collect rents, fees, and charges for the use or enjoyment of the facilities of each university project, and shall revise such rents, fees and charges from time to time whenever necessary so that all university projects shall be and always remain self-supporting. The rents, fees and charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all loans, bonds, and interest thereon, for the payment of which such revenue is or has been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all cost of maintenance of all university projects, including reserves therefor. Neither the provisions of this section, nor of any other section of this chapter shall preclude the making of appropriations to the board, the acceptance of gifts by the board, or the use of funds derived from the sale of stocks, bonds, and other assets in the possession of the board to pay all or part of the cost of construction, of maintenance, or both, of any or all university projects. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.11. University project fund. The treasurer of the Territory is authorized, empowered and required to establish as a special deposit in the treasury of the Territory, a special fund into which all revenues received from all university projects constructed, maintained, or both, by the board under the provisions of this chapter shall be paid, which special fund is hereby created and shall be known as the University Project Fund. All moneys in the University Project Fund are hereby appropriated except as limited or prohibited by the covenants in the resolution or resolutions of the board authorizing the obtaining of loans or issuance of revenue bonds under this chapter: (a) to provide for all costs of construction and maintenance of university projects, including reserves therefor; (b) to pay when due all loans and revenue bonds, and interest thereon, for the payment of which such revenue is or has been pledged, charged or otherwise encumbered, including reserves therefor; (c) to pay and discharge notes, bonds or other obligations, and interest thereon, not issued under this chapter for the payment of which the revenue of university projects is or has been pledged, charged or encumbered; (d) to pay and discharge notes, bonds or other obligations and interest thereon which do not constitute a lien, charge, or encumbrance on the revenue of university projects, which have been issued for the purpose of financing the cost of construction, maintenance, or both,

of university projects; (e) to reimburse the university for all moneys advanced to pay the expenses incurred in obtaining the initial loan or in making the preparations for the initial issuance of revenue bonds under this chapter; and (f) to provide a reserve for betterments to university projects. If adequate provision has been made for all the foregoing purposes, and if permitted by the covenants in the resolution or resolutions authorizing the obtaining of loans and the issuance of revenue bonds under this chapter, any surplus moneys remaining in the University Project Fund at the end of any fiscal year may be expended by the board in subsequent years in furtherance of any or all of the purposes of the university.

The auditor of the Territory shall open and keep in his books a separate and special account of the University Project Fund which shall be known as the University Project Fund account and which shall at all times show the exact condition thereof, including reserves.

Moneys appropriated as hereinabove provided shall be payable by the treasurer of the Territory, upon warrants issued by the auditor of the Territory, upon vouchers approved by the board or its duly authorized agent. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.12. University project, loans and bonds exempt from taxation. So long as the Territory shall own any university project, the property and revenue of such university project shall be exempt from all territorial, county and municipal taxation and assessments. Loans obtained under this chapter, instruments evidencing the obligation to repay the loans, revenue bonds issued under this chapter, and all income therefrom shall be exempt from all territorial, county and municipal taxation except inheritance, transfer and estate taxes. [L. 1947, c. 141, pt. of s. 1.]

Sec. 1991.13. [Powers herein, additional to other powers.] The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other general, special or local law. In so far as the provisions of this chapter are inconsistent with the provisions of any other general, special or local law the provisions of this chapter shall be controlling." [L. 1947, c. 141, pt. of s. 1.]

Section 2. If any provision of this Act, or its application to any person or circumstance, is held invalid, the remainder of the Act, or the application of the provision to other persons or circumstances is not affected.

Section 3. This Act shall take effect upon its approval.
(Approved May 16, 1947.) **S.B. 146, Act 141.**

Title 6: HEALTH.
Chapter 35. BOARD OF HEALTH

Sec. 2017, amended **L. 1947,** c. 192 (A-52), post.

Series A-43: ACT 82

An Act to Amend Section 2020 of the Revised Laws of Hawaii 1945 by Substituting in Said Section 2020 the Phrase "Rule or Regulation" for the Word "Regulation".

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2020** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the word "regulation" in the first line of said section 2020 the phrase "rule or regulation".

Section 2. This Act shall take effect upon its approval.
(Approved May 13, 1947.) **H.B. 263, Act 82.**

Note: As so amended, § 2020 reads:

Sec. 2020. Penalty. Every person who shall violate any rule or regulation of the board of health, after the same shall have been published, as provided in section 2012, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment. [P. C. 1869, c. 59, s. 8; R. L. 1925, s. 914; R. L. 1935, s. 906; am. L. 1943, c. 18, s. 1; R. L. 1945, s. 2020; am. L. 1947, c. 82, s. 1.]

Note: See J. R. 10, post, health center at Nanakuli. § **2010** was amended L. 1945, c. 209 (A-41); § **2012** was amended L. 1945, c. 116 (A-42); § **2015** was amended L. 1945, c. 116 (A-42); § **2017,** amended **L. 1947,** c. 192 (A-52), post.

[CHAPTER 35A. BARBERING, PRACTICE OF.]

Series A-44: ACT 194

An Act Providing For the Establishment of a Board of Barbers to Examine and License Persons Desiring to Practice Barbering In the Territory of Hawaii, Providing for the Regulation of the Practice of Barbering in the Territory and Providing for the Registration of Barber Shops.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 2025.01.**] Section 1. **Definitions.** For the purpose of this Act, the following definitions shall be adopted and understood to be included within the meaning of this Act.

(1) The practice of barbering is hereby defined to be any combination of the following practice for remuneration: shaving,

cutting, trimming, singeing, shampooing, arranging, dressing, curling or waving (other than permanent waving) the hair or beard or applying tonics or other preparation thereto: massaging, cleansing or applying oils, creams, lotions or other preparation to the face, scalp or neck, either by hand or by mechanical appliances, **provided** that nothing in this chapter shall be construed as applicable to those persons licensed under chapter 36 to practice the occupations named therein.

(2) As used in this chapter, barber shop embraces any establishment or place of business wherein the practice of barbering is engaged or carried on.

(3) An apprentice is a person who is engaged in learning or acquiring within a barbering establishment or school, and while learning assists in, any of the practices mentioned herein under the immediate direction and supervision of a barber or instructor.

(4) A barber is a person, not an apprentice, who engages in and follows any of such practices.

(5) Board shall mean the board of barbers created under this Act. [L. 1947, c. 194, s. 1.]

[**Sec. 2025.02.**] Section 2. **Certificate of registration required.** (1) It shall be unlawful for any person in the Territory of Hawaii to engage in the practice of barbering for compensation unless he shall have first obtained a certificate of registration as provided in this Act.

(2) It shall be unlawful for any person to operate a barber shop in the Territory of Hawaii unless he shall have first registered such barber shop as provided in this Act. [L. 1947, c. 194, s. 2.]

[**Sec. 2025.03.**] Section 3. **Creation of territorial board.** There is hereby created a territorial board of barbers consisting of five (5) members who shall be appointed and may be removed by the governor in the manner prescribed in section 80 of the Organic Act. The members shall be citizens of the Territory and each member must have practiced barbering in the Territory for at least five (5) consecutive years immediately preceeding his appointment. Three (3) of the members of the board shall be residents of Oahu, and two (2) of whom shall be residents of the outside islands. Each member shall serve for a term of four (4) years, and until his successor is appointed and qualified, except in the case of the first board whose members shall serve one (1), two (2), three (3), four (4) and five (5) years, respectively, and shall take the oath provided for public officers. Vacancies shall be filled by the governor for the unexpired portion of any term. [L. 1947, c. 194, s. 3.]

[Sec. 2025.04.] Section 4. **Organization of the board.** Powers and duties.

(1) The board shall have a president, secretary and treasurer who shall be elected annually from among its members. The office of secretary and treasurer may be filled by the same member, as the board may determine. The president and secretary shall have the power to administer oaths.

(2) The secretary of the board shall receive an annual salary to be fixed by the board, not exceeding six hundred dollars ($600.00) and his necessary expenses actually incurred in the performance of his duties. He shall not be subject to the classification law or be a member of the employee's retirement system of the Territory of Hawaii.

(3) The treasurer of the board shall give a surety bond payable to the board, in the sum of three thousand dollars ($3,000.00) approved by the board, conditioned for the faithful performance of the duties of his office. Such bond shall have the approval of the board and have the oath of office endorsed thereon, and shall be deposited with the president of the board, and kept in his office.

(4) The board shall meet in Honolulu on the second Tuesday in January and July of each year and at such other times and places as the board may direct. The majority members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for the government and have a seal with which to authenticate its acts.

(5) The board shall keep a record of its proceedings. It shall keep a register of applicants for certificates, showing the name of the applicant, the name and location of his place of occupations or business, and whether the applicant has been granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained, and shall constitute public records. Originals of all records, correspondence, and other documents shall be deposited with the archives at Honolulu within six (6) months after the close of each fiscal year. [L. 1947, c. 194, s. 4.]

[Sec. 2025.05.] Section 5. **Powers and duties of the board.**

(1) The board shall have the power to give examinations for the issuance of certificates of registration to practice barbering, to grant, revoke, or suspend such certificates, to hold public hearings, to establish rules and regulations governing the practice of barbering, which upon approval by the governor of the Territory of Hawaii, shall have the force and effect of law under this Act, and to make rules and regulations concerning the administration of said board and of the practice of barbering and shall have the power to revoke and suspend certificates upon proof of violation of any such rules and regulations.

(2) The board may suspend or revoke a certificate to a person guilty of fraud in passing the examination or at any time guilty of a felony or gross immorality, grossly unprofessional or dishonest conduct or to one addicted to liquor or drug habits to such a degree as to render him unfit to practice in any of the occupations classified under this chapter, or to one advertising by means of knowingly false or deceptive statements, or for the failure to display the certificates as provided in this section.

(3) The board shall have the power to require the attendance of witnesses and the production of such books, records and papers as either may desire at any hearing of any matter which the board has authority to investigate, and for the purpose may require the secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers directed to the sheriff of the county or the city and county where such witness resides or is found which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage shall be paid from the funds in the territorial treasury for the use of the board in the same manner as other expenses of the board are paid.

(4) Hearing may be held by any member. Any investigation, inquiry or hearing which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board, and the finding or order of such member or members shall be deemed to be the finding or order of the board when approved and confirmed by it. [L. 1947, c. 194, s. 5.]

[**Sec. 2025.06.**] Section 6. **Appeal from actions of the board.** An appeal may be taken from an action of the board refusing to grant or suspending or revoking a certificate for the causes hereinabove mentioned to the circuit court of the circuit in which the person who has been refused a certificate or whose certificate has been suspended or revoked resides. The judgment of the circuit court may be reviewed by the supreme court. [L. 1947, c. 194, s. 6.]

[**Sec. 2025.07.**] Section 7. **Application for examinations.** Each person who desires to practice as a barber or as an apprentice barber shall file with the secretary of the board a written application, under oath, on a form prescribed and supplied by the board, and shall submit satisfactory proof of the required age, qualifications of good moral character and of freedom from infectious or contagious diseases, and shall deposit with the secretary the required fees and two photographs of the applicant of a size to be determined by the board. [L. 1947, c. 194, s. 7.]

[Sec. 2025.08.] Section 8. **Requisites for admission to examinations and registration.** The secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

(1) Apprentices shall be at least sixteen (16) years of age, shall be of good moral character and temperate habits, shall have been graduated from an eighth grade grammar school or possess an equivalent education.

(2) Barbers shall be at least eighteen (18) years of age, shall be of good moral character and temperate habits, shall have been graduated from an eighth grade school or possess an equivalent education; shall have practiced as a barber or an apprentice for a period of at least eighteen (18) months under the immediate personal supervision of a barber.

If the board finds that the applicant has the credentials necessary for admission to the examination the board shall admit such applicant to examination. The examination of applicants for certificates to practice shall be conducted under rules prescribed by the board, and shall include both practical demonstrations, written or oral tests. [L. 1947, c. 194, s. 8.]

[Sec. 2025.09.] Section 9. **Certificates.** If an applicant for examination to practice as a registered apprentice or as a registered barber passes the examination to the satisfaction of the board, and has paid the fee required and complies with the requirements pertaining to him, the board shall issue a certificate to that effect signed by the president and secretary and attested by its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to practice as a registered apprentice barber or as a registered barber, as the case may be. Such certificate shall be conspicuously displayed in adjacent to or near his work chair. No registered apprentice may independently practice barbering, but he may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision and employment of a registered barber. [L. 1947, c. 194, s. 9.]

[Sec. 2025.10.] Section 10. **Exemptions.** Any present resident of this Territory who has immediately preceding the effective date of this Act continuously engaged in the practice of barbering at one or more established places of business in the Territory of Hawaii shall be granted a certificate of registration as a registered barber without examination by making application to the board on or before ninety (90) days after the effective date of this Act and paying the required fee.

Any person who, prior to the passage of this Act, was practicing barbering as an apprentice under the supervision of a practicing barber in this Territory, shall be granted a certificate of registration to practice as an apprentice by making application to the board on or before ninety (90) days after the effective date of this Act and paying the required fee. [L. 1947, c. 194, s. 10.]

[**Sec. 2025.11.**] Section 11. **Temporary certificates.**

(1) Any person who is at least eighteen (18) years of age and of good moral character and temperate habits and has a diploma showing graduation from an eighth grade grammar school, or possesses an equivalent education and either:

(a) Has a certified or photostat copy of a certificate, or certificate of registration, or license as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by this Act, or

(b) Who can prove to the satisfaction of the board that he has practiced as a barber in another state or country for at least five (5) years immediately prior to making application in this Territory, shall upon payment of the required fee be issued a permit to practice as a journeyman barber only until he is called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. Should he fail to pass the required examination, he shall be allowed to practice as a journeyman barber until he is called by the board for the next term of examinations. Should he fail at the third examination, he must cease to practice barbering in this Territory.

(2) Any apprentice who is at least sixteen (16) years of age and of good moral character and temperate habits and who has a diploma showing graduation from an eighth grade grammar school, or possesses an equivalent education and has a certificate of registration as an apprentice in a state or a country which has substantially the same requirements for registration as an apprentice as is provided by this Act, shall upon payment of the required fee, be issued a permit to work as an apprentice until called by the board for examination to determine his fitness to receive a certificate of registration as an apprentice. Should he pass the required examination a certificate of registration as a registered apprentice shall be issued to him and the time spent in such other state or country as an apprentice shall be credited by this Act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber.

(a) Any person who has practiced as an apprentice in another state or country which does not have substantially the same requirements for registration as an apprentice as required by this Act and who has the other qualifications required by this Act

shall be credited with the time so spent as an apprentice in such other state or country upon the period of apprenticeship required by this Act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber but no temporary permit shall be issued to such person. [L. 1947, c. 194, s. 11.]

[Sec. 2025.12.] Section 12. **Fees.** (1) The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering shall be ten dollars ($10.00), and for the issuance of the certificate two dollars ($2.00). The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an apprentice shall be five dollars ($5.00), and for the issuance of the certificate one dollar ($1.00).

(2) The fee to be paid for the renewal of a certificate of registration to practice barbering shall be two dollars ($2.00), and for the restoration of an expired certificate five dollars ($5.00).

(3) The fee to be paid for the renewal of the certificate of registration to practice as an apprentice shall be one dollar and fifty cents ($1.50), and for the restoration of an expired certificate three dollars ($3.00).

(4) The fee to be paid by an applicant to conduct a barber shop is five dollars ($5.00). The fee to be paid for the annual renewal of a certificate to conduct a barber shop is five dollars ($5.00).

(5) A duplicate certificate will be issued upon the filing of a statement covering the loss of a certificate or permit, verified by the oath of the applicant and submitting one signed photograph, and the payment of a fee of one dollar ($1.00) for issuance of same. Each duplicate certificate or permit shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the certificate or permit that it was issued in lieu of. All fees shall be paid in advance to the treasurer of the board, and by him paid into the territorial treasury to the credit of the fund for the use of the board. [L. 1947, c. 194, s. 12.]

[Sec. 2025.13.] Section 13. **Renewal of the certificates.** The holder of a certificate issued by the board who continues in active practices shall annually, on or before December 1, renew his certificate and pay the renewal fee. A certificate which has not been renewed during the month of November in any year shall expire December 31 in that year. The holder of the expired certificate may have within three (3) years of the date of expiration, the certificate restored upon due application therefor and payment of the required fees. [L. 1947, c. 194, s. 13.]

[Sec. 2025.14.] Section 14. **Duration of certificates; renewal fees.** No certificate shall be issued for a longer period than one (1) year, and all certificates shall expire December 31, next succeeding, unless renewed for the next year upon the payment of the required fees. [L. 1947, c. 194, s. 14.]

[Sec. 2025.15.] Section 15. **Penalties.** Any person who shall practice barbering, operate a barber shop, or act in any capacity wherein a certificate is required, without a certificate as provided in this chapter, shall be guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars ($100.00), or shall be imprisoned for not more than six (6) months, or both. Each and every day of violation shall be construed as a separate offense. All fines and penalties shall be paid into the treasury within ten (10) days after the payment thereof, and shall inure to the benefit of the board. [L. 1947, c. 194, s. 15.]

[Sec. 2025.16.] Section 16. **Separability of provisions.** If any provision of this Act or the application of such provision to any persons or circumstances shall be held invalid the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

[Sec. 2025.17.] Section 17. This Act shall be known and may be cited as the "Territorial Barber Law". [L. 1947, c. 194, s. 17.]

Section 18. This Act shall take effect upon July 1, 1947.
(Approved May 19, 1947.) **S.B. 209, Act 194.**

Chapter 36. BEAUTY CULTURE; REGULATION OF.

Series A-45: ACT 238

An Act Relating to Beauty Culture, and Amending Sections 2041, 2053, 2056 and 2058 and Enacting Section 2653.01 of Chapter 36 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2041 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 2041. Requisites for admission to examination and registration.** The secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

1. Apprentices or students shall, while learning or acquiring any of the practices of the classified occupations, be at least sixteen years of age, of good moral character and have an education equivalent to the completion of four years of high school;

2. Operators may be registered in any of the practices or the classifications under this chapter upon the payment of the examination fee of ten dollars for each of the practices or the classifications or any one or any combination of the practices or the classifications as application is therefor made, **providing** they are of good moral character and have an education equivalent to the completion of four years of high school and shall have served the required time, as determined by the board for any one or combination of the practices, but not less than one year for each of the classifications, under the supervision of a registered operator or instructor, as an apprentice, but not less than two thousand hours for each of the two classifications as defined in this chapter, or shall have had the required training in a registered school, and shall have passed an examination to the satisfaction of the board; provided that the applicants for the examination to practice for the removal of superfluous hair, by the use of electricity, and commonly known and defined as the practice of electrolysis, shall have an additional training under the supervision of a registered operator or instructor of at least two hundred hours including such other reasonable studies as the board may prescribe;

3. Instructors in a school may be registered as such upon the payment of a fee of ten dollars **provided** they have had three years of continuous practice as an operator. Instructors duly registered under any limited medical practice act need not be holders of instructor's certificates." [L. 1929, c. 145, s. 12; R. L. 1945, s. 2041; am. L. 1947, c. 238, s. 1.]

Section 2. Section 2053 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 2053. Registered schools and shops. 1. Schools.** It shall be competent for any person to apply to the board for a certificate of registration as a school of any of the practices of the classified occupations, upon the payment of a reasonable annual registration fee as determined annually by the board for each of the classified occupations or any of the practices thereof.

No school for hairdressers, or cosmeticians or cosmetologists shall be granted a certificate of registration unless it shall attach to its staff a regularly licensed physician and employ and maintain a sufficient number of competent

instructors, registered as such, who shall hold an instructor's certificate as uniformly prescribed by the board and shall require a course of training not less than nine hundred hours for each, of the two classified occupations, or a proportioned number of hours as approved by the board, for any of the practices of the classified occupations, **provided** the total shall not be less than eighteen hundred hours, to include both practical demonstrations, written and oral tests, and include practical instructions in sanitation, sterilization, and the use of antiseptics consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this chapter.

2. **Shops.** It shall be competent for any person to apply to the board for a certificate of registration as a shop of any of the practices of the classified occupations upon the payment of a two dollar annual registration fee.

No hairdressing, cosmetician or cosmetologist shop shall be granted or continue to hold a certificate of registration unless its manager shall have at least one year of continuous practice as a licensed hairdresser or cosmetologist in the Territory of Hawaii immediately prior to the granting or continuance of such certificate.

Nothing contained in this section shall prohibit registered operators within a hairdressing, cosmetician and cosmetologist establishment from teaching any of the practices of the classified occupations in their regular course of business; provided the owners or managers thereof do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one and the same time, more than one apprentice to three or less operators, regularly employed within their business." [L. 1929, c. 145, s. 5; R. L. 1945, s. 2053; am. L. 1947, c. 238, s. 2.]

Section 3. Section 2056 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 2056. Renewal of certificates and additional fee.** The holder of a certificate issued by the board, who continues in active practice, shall annually, on or before November 30, renew his certificate and pay the renewal fee. A certificate which has not been renewed during the month of November in any year shall expire December 31 in that year. The holder of the expired certificate may have the certificate restored within three years of the date of expiration upon due application therefor and payment of the required fees." [L. 1929, c. 145, s. 26; R. L. 1945, s. 2056; am. L. 1947, c. 238, s. 3.]

Section 4. A new section is hereby inserted in chapter 36 of said Revised Laws, which shall be designated section 2053.01 and shall read as follows:

"**Sec. 2053.01. Shops to be registered.** No hairdressing or cosmetician or cosmetologist shop shall be operated unless the same shall have been duly registered under the provisions of this chapter as amended." [L. 1947, c. 238, s. 4.]

Section 5. Any person who is an apprentice or student, qualfied as such under the provisions of section 2041 of said Revised Laws prior to its amendment by this Act, shall be eligible to continue as such apprentice or student notwithstanding such amendment, and any person qualified under the provisions of said section as an operator or instructor prior to such amendment shall be eligible to take the examination for operator or instructor provided for in this Act at any time such examination may be held prior to January 1, 1949, and shall, in the event he should pass the same, be entitled to registration under this Act.

Section 6. Section 2058 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 2058. Penalty.** Any person who shall practice any of the occupations, maintain a school or a shop or act in any capacity wherein a certificate is required, without a certificate as provided in this chapter, shall be guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars, or shall be imprisoned for not more than ninety days, or both. Each and every day of violation shall be construed a separate offense. All fines and penalties shall be paid into the treasury within ten days after payment thereof." [L. 1929, c. 145, s. 28; R. L. 1945, s. 2058; am. L. 1947, c. 238, s. 6.]

Section 7. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 329, Act 238.**

Chapter 37. CHIROPRACTIC.

Series A-46: ACT 94

An Act to Amend Section 2083 of the Revised Laws of Hawaii 1945 by Substituting the Word "Uses" for the Phrase "The Use Of" in the Eighth Line of Said Section 2083.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2083** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the phrase "the use of" in the eighth line of said section 2083 the word "uses".

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 130, Act 94.**
Note: As so amended, § 2083 reads:

Sec. 2083. Violations, penalty. Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell, or fraudulently obtain a license to practice chiropractic, whether recorded or not, or who shall use the title "chiropractor" or "D. C.," or any word or title to induce, or tending to induce belief that he is engaged in the practice of chiropractic, without first complying with the provisions of this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor" or "D. C." immediately following his name, or uses the letters "M. D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the word "osteopath," or the letters "D. O.," or any other letters, prefixes or suffixes, the use of which would indicate that he was practicing a profession for which he held no license from the Territory, or any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than two hundred dollars, or by imprisonment for not less than thirty days nor more than ninety days, or both. [L. 1925, c. 99, s. 14; R. L. 1935, s. 972; R. L. 1945, s. 2083; am. L. 1947, c. 94, s. 1.]

Chapter 39. DENTISTRY.

Series A-47: ACT 170

An Act Amending Chapter 39 of the Revised Laws of Hawaii 1945, Relating to Dentistry, by Amending Sections 2154, 2156, 2157, 2159 and 2167.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2154** of Chapter 39 of the Revised Laws of Hawaii 1945 is hereby amended by:

(a) Substituting for the phrase "one column" in the twenty-seventh and twenty-eighth lines of said section 2154 the phrase "two columns";

(b) Substituting for the period at the end of said section 2154 a semicolon; and

(c) Inserting in said section 2154 immediately after said semicolon the following:

"**provided** that no person licensed under this chapter shall display his name or title on any premises where he is engaged in his profession by any letters higher than five inches or wider than three inches."

Section 2. **Section 2156** of said Chapter 39 is hereby amended by:

(a) Substituting for the word "treasurer" in the second line of said section 2156 the phrase "one treasurer"; and

(b) Substituting for the word "August" ["July"?] in the third line of said section 2156 the word "September".

Section 3. **Section 2157** of said Chapter 39 is hereby amended by substituting for the word "two" in the seventh line of said section 2157 the word "five". [$5.00 annual fee.]

Section 4. **Section 2159** of said Chapter 39 is hereby amended by:

(a) Substituting for the phrase "July and December" in the forty-first line of said section 2159 the phrase "February and August";

(b) Substituting for the word "person" in the forty-second line of said section 2159 the phrase "resident or non-resident otherwise"; and

(c) Inserting in the last paragraph of said section 2159 at the end of such paragraph a new sentence:

"No person who has failed an examination under this section shall have the benefit of any temporary license under this section."

Section 5. **Section 2167** of said Chapter 39 is hereby amended to include at the end of said section 2167 a new sentence as follows:

"No person whose license has been cancelled under this section shall be granted a new license under this chapter unless he shall have been pardoned for such felony."

Section 6. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 136, Act 170.**

Note: As amended, §§ 2154, 2156, 2159 and 2167 now read:

Sec. 2154. Fraudulent advertising; penalty. It shall be unlawful for any person to publish, directly or indirectly, or circulate, any fraudulent, false or misleading statements as to the skill or method of practice of any person or operator; or in any way to advertise to practice dentistry without causing pain; or to advertise in any manner with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, material, medicine, method or system which is either falsely advertised or misnamed; or to advertise free dental services or examinations as an inducement to secure dental patronage; or to advertise any amount as a price or fee for the service or services of any person engaged as principal or agent in the practice of dentistry, or for any material or materials whatsoever used or to be used; or to employ "cappers" or "steerers" to obtain patronage or to exhibit or use specimens of dental work, posters, or any other media calling attention of the public to any person engaged in the practice of dentistry; or to give a public demonstration of skill or methods or practicing dentistry upon or along the streets or highways, or any place other than his office where he is known to be regularly engaged in the practice of his profession; and any person committing an offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this chapter,

provided, that any person licensed under this chapter may announce, by way of a professional card, only his name, title, degree, office location, office hours, phone number, and residence address and phone number, and if he limits his practice to a specialty he may announce it, but such card shall not be greater in size than three and one-half inches by two inches, and such information may be inserted in public print when not more than two columns in width and two inches in depth; or announce his change of place of business, absence from, or return to business in the same manner; or issue appointment cards to his patients, when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on the professional card; or display the name of the licensee, on the premises where engaged in the profession, upon the windows thereof and by a door plate or name or office directory when the information is limited to that of the professional card; **provided** that no person licensed under this chapter shall display his name or title on any premises where he is engaged in his profession by any letters higher than five inches or wider than three inches. [L. 1917, c. 136, s. 4; R. L. 1925, s. 1068; R. L. 1935, s. 983; am. L. 1937, c. 220, s. 2; R. L. 1945, s. 2154; am. L. 1947, c. 170, s. 1.]

Sec. 2156. Officers, meetings, quorum. The board shall elect one of its members president, and one secretary and one treasurer thereof. The board shall meet in September of each year, and at such other times as shall be necessary, due notice of the times and places of which meetings shall be given by publication in some newspaper of general circulation in the Territory. A majority of the board shall constitute a quorum. [L. 1903, c. 40, s. 4; R. L. 1925, s. 1070; R. L. 1935, s. 985; R. L. 1945, s. 2156, am. L. 1947, c. 170, s. 2.]

Sec. 2159. Application, examination, time; fee; temporary license. Any person of the age of twenty-one years or more, who is a citizen of the United States, and has been a resident of the Territory for at least one year, and who is of good moral character, shall be eligible to take an examination before the board of examiners upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of twenty-five dollars, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least sixty days prior to the date selected by the board for such examination the following credentials:

1. A diploma or certificate of graduation from an American dental college recognized and approved by the board;

2. A diploma or other proper certificate from an accredited high school certifying that such applicant has had scholastic preparation or training equivalent in all respects to that usually demanded for graduation by high schools giving a four-year course of instruction in the state or territory in which such high school is located. No such certificate shall be accepted by the board unless it shall be signed by the superintendent of public instruc-

tion, or similar corresponding officer, having jurisdiction over such high school; **provided,** however, that an applicant who has been a duly licensed and active practitioner of dentistry in some other state of the United States for a period of five years or more may file such license, or proper evidence thereof, in lieu of the high school certificate referred to;

3. A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of dental examiners, and the secretary of the state dental association of that state;

4. A recent unmounted photograph of the applicant.

The board shall examine all applicants in both theory and practice of dentistry.

The requirements for the practical examination in operative and prosthetic dentistry shall be decided upon and announced to the applicant on the day selected for beginning the theoretical examination.

All instruments, materials and patients must be supplied by the applicant. An engine and chair shall be furnished by the board.

Two examinations shall be held each year, in February and August, **provided,** however, that the board may issue without examination to any resident or non-resident otherwise qualified to be examined as herein set forth a temporary license to practice dentistry in the employment of the Territory or any county, or any legally incorporated eleemosynary dispensary or infirmary, private school, or welfare center; such temporary license shall remain in force only while the person to whom such license is issued shall be in such employment and such temporary license shall be automatically canceled when such person shall have been examined by the territorial board of examiners and it shall, further, be subject to revocation by the board at any time. No person who has failed an examination under this section shall have the benefit of any temporary license under this section. [L. 1903, c. 40, s. 5; am. L. 1920, c. 40, s. 5; am. L. 1921, c. 32, s. 2; am. L. 1923, c. 218, s. 1; R. L. 1925, s. 1073; am. L. 1927, c. 150, s. 1; R. L. 1935, s. 988; am. L. 1937, c. 220, s. 4; R. L. 1945, s. 2159; am. L. 1945, c. 118, s. 1; am. L. 1947, c. 170, s. 4.]

Sec. 2167. Conviction of felony, effect. Upon presentation to the board of a certified copy of a final judgment of a court of record showing that a practitioner of dentistry has been convicted of a felony, that fact shall be noted on the record of licenses, and the record of the licensee shall be marked "canceled." Any person whose license shall be so canceled shall be deemed an unlicensed person, and as such shall be subject to the penalties prescribed for other unlicensed persons who practice dentistry in the Territory. No person whose license has been cancelled under this section shall be granted a new license under this chapter unless he shall have been pardoned for such felony. [L. 1903, c. 40, s. 8; R. L. 1925, s. 1080; R. L. 1935, s. 995: R. L. 1945, s. 2167; am. L. 1947, c. 170, s. 5.]

Note: §§ **2182-83** were amended L. 1945, c. 118 (A-44), re dental hygienists.

Chapter 41. FOOD, DRUGS AND COSMETICS.

Series A-48: ACT 116

An Act Repealing Section 2229 of the Revised Laws of Hawaii 1945, Relating to the Duties of the Food Commissioner.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2229** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 2. This Act shall take effect upon its approval.
(Approved May 15, 1947.) **S.B. 211, Act 116.**

Series A-49: ACT 187

An Act Amending Part II of Chapter 41 of the Revised Laws of Hawaii 1945, by Adding Thereto a New Section to Be Designated Section 2240.01, Relating to the Sale of Iced Fish.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Part II of chapter 41 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be designated section 2240.01, to read as follows:

"**Sec. 2240.01. Fishing on commercial fishing vessels.** Anything in the statute or rules and regulations to the contrary notwithstanding, fish caught and immediately placed on ice or otherwise adequately chilled on commercial fishing vessels may be sold upon their return to port. Any fish remaining unsold shall be placed in cold storage and may be later sold, at any time thereafter as long as such fish are not spoiled and unfit for human consumption." [L. 1947, c. 187, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 478, Act 187.**
Note: §§ **2246.01-.06** added L. 1945, c. 101 (A-45), re flour enrichment.

Chapter 42. INFECTIOUS AND COMMUNICABLE DISEASES.

Note: § 2305 was amended L. 1945, c. 191 (A-46); § 2311 was amended L. 1945, c. 105 (A-47); § 2317 was amended L. 1945, c. 66 (A-48).

Series A-50: ACT 79

An Act to Provide Free Examinations for Tuberculosis.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2330.01.] Section 1. [**Examinations for tuberculosis.**] The board of health shall provide for the giving to all persons applying a free examination, with such x-ray and other tests as may be appropriate, for tuberculosis. [L. 1947, c. 79, s. 1.]

[Sec. 2330.02.] Section 2. [**Notice.**] At least once annually such examinations shall be available, after the giving of public notice of the time and place where such examinations are to be held, in at least three places in each school district throughout the Territory. [L. 1947, c. 79, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **S.B. 48, Act 79.**

Note: §§ 2331-33 were amended L. 1945, c. 171 (A-49).

Series A-51: ACT 165

An Act to Amend Further Chapter 42 of the Revised Laws of Hawaii 1945, as Amended, Relating to Compulsory Vaccination and Immunization Against Certain Diseases, Exemptions From Such Compulsory Vaccination and Immunization, and Penalties to Enforce Such Compulsory Vaccination and Immunization.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 42 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By amending section 2334 thereof to read as follows:

'**Sec. 2334. Performance of vaccination and immunization.** Any vaccination or immunization required of any person by section 2331, 2332, or 2333 may be performed by a duly licensed physician or an authorized representative of the board of health, who upon satisfactory completion of such vaccination or immunization shall sign two copies of a certificate setting forth the name and address of such person, the date of such vaccination or immunization, and for smallpox vaccination the result thereof, and shall issue

the original copy of such certificate to such person or, if he is a minor or under guardianship, to his parent or guardian and forward the duplicate copy of such certificate to the board of health for its files." [L. 1945, c. 171, pt. of s. 1; am. L. 1947, c. 165, s. 1 (a).]

(b) by amending section 2335 thereof to read as follows:

"**Sec. 2335. Exemptions.** Sections 2331, 2332, and 2333 shall be construed not to require the vaccination or immunization of any person for three months after a duly licensed physician or an authorized representative of the board of health shall have signed two copies of a certificate stating the name and address of such person and that because of a stated cause the health of such person would be endangered by such vaccination or immunization, and shall have forwarded the original copy of such certificate to such person or, if he is a minor or under guardianship, to his parent or guardian, and shall have forwarded the duplicate copy of such certificate to the board of health for its files." [L. 1945, c. 171, pt. of s. 1; am. L. 1947, c. 165, s. 1 (b).]

(c) by amending section 2336 thereof to read as follows:

"**Sec. 2336. Forms and procedures.** The board of health may prescribe forms and procedures to achieve the purposes of sections 2331 to 2335, both inclusive, and shall maintain in the offices of the board of health at each of the cities of Honolulu, Hilo, Wailuku, Lihue, and Kaunakakai, a complete roster of all vaccinations and immunizations performed, and of all exemptions from vaccination or immunization granted, by or from that office." [L. 1945, c. 171, pt. of s. 1; am. L. 1947, c. 165, s. 1 (c).]

(d) by amending section 2337 thereof to read as follows:

"**Sec. 2337. Fraud; wilful misrepresentation; failure to comply; penalties.** Any person who shall by fraud or wilful misrepresentation circumvent or defeat or attempt to circumvent or defeat any purpose or provision of any of sections 2331 to 2335, both inclusive, or who, required by any provision of any of sections 2331 to 2333, both inclusive, to be vaccinated or immunized, shall fail to be so vaccinated or immunized shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than twenty-five dollars or imprisonment for not more than thirty days or both such fine and such imprisonment." [L. 1945, c. 171, pt. of s. 1; am. L. 1947, c. 165, s. 1 (d).]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 479, Act 165.**

Note: § **2338** was amended L. 1945, c. 171 (A-49); §§ **2339-40** were repealed L. 1945, c. 171 (A-49). § **2423** was amended L. 1945, c. 159 (A-50); § **2424.01** was added L. 1945, c. 229 (A-51).

[CHAPTER 43A. MASSAGE AND HAWAIIAN LOMI-LOMI.]

Series A-52: ACT 192

An Act to Regulate the Practice of Massage and Hawaiian Lomi-lomi, to Create a Territorial Board of Examiners for the Registration of Persons to Carry on Such Practice, to Provide Rules Regulating the Proper Conduct and Sanitation of Massage Establishments for the Protection of the Public Health, to Provide Penalties for Violations Thereof and to Amend Act 116 of the Session Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 2451.01.**] Section 1. **Definitions.** For the purpose of this Act, the following definitions shall be adopted and understood to be included within the meaning of this Act:

(a) Board shall mean the board of massage created under this Act;

(b) Massage or massaging and Hawaiian massage commonly known as lomi-lomi, shall mean any method of treatment of the superficial soft parts of the body, consisting of rubbing, stroking, tapping or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice;

(c) Masseur or operator shall mean any person who, properly registered, engages in and follows the occupation or practice of massage for compensation;

(d) A massage salon or parlor shall be construed to mean any premises occupied and used for the purpose of practicing massage, **provided** that when any such salon or parlor is conducted in any building used for residential or sleeping purposes, a room or rooms shall be set apart for the practice of the foregoing occupation and shall not be used for any other purpose. [L. 1947, c. 192, s. 1.]

[**Sec. 2451.02.**] Section 2. **Certificate of registration required.** It shall be unlawful for any person in the Territory of Hawaii to engage in and to follow or to attempt to engage in and to follow the occupation or practice of massage for compensation unless he or she shall have first obtained a certificate of registration as provided under this Act. [L. 1947, c. 192, s. 2.]

[**Sec. 2451.03.**] Section 3. **Massage establishments to be registered.** No massage salon or parlor shall be operated unless the same shall have been duly registered as provided for in this Act. [L. 1947, c. 192, s. 3.]

[Sec. 2451.04.] Section 4. **Creation of territorial board.** There is hereby created a territorial board of massage consisting of three (3) members. The governor shall appoint the members of such board in the manner prescribed in section 80 of the Organic Act. Such members must have at least three (3) years of practical experience as registered masseurs and shall be American citizens. Each member of said board shall serve a term of three (3) years, or until his successor is appointed and qualified, except in the case of the first board whose members shall serve one (1), two (2) and three (3) years respectively, and shall take the oath provided for public officers. Vacancies shall be filled by the governor for the unexpired portion of the term. They shall serve without compensation except as otherwise provided in this Act. [L. 1947, c. 192, s. 4.]

[Sec. 2451.05.] Section 5. **Organization of the board.** The board shall have a president, secretary and treasurer who shall be elected annually from among its members. The office of secretary and treasurer may be filled by the same member, as said board may determine. The president and secretary shall have the power to administer oaths in the discharge of their official duties under this Act. [L. 1947, c. 192, s. 5.]

[Sec. 2451.06.] Section 6. **Powers and duties of the board.** (1) The said board, created by this Act, shall hold public hearings to establish rules and regulations governing the practice of massage, which, upon approval of the governor of the Territory of Hawaii, shall have the force and effect of law under this Act;

(2) The board shall be empowered to grant, revoke and suspend certificates provided in this Act, upon proof of violation of the provisions of this Act, or rules and regulations established by the board governing the practice under this Act;

(3) The board may refuse to grant or may revoke a certificate to a person guilty of fraud in passing the examination; to a person convicted of a felony or misdemeanor involving such moral turpitude as the board may determine; to one addicted to liquor or drug habits or for the failure to display the certificates as provided in this Act;

(4) The secretary, under the direction of the board shall issue subpoenas for the attendance of witnesses before the board with the same effect as if they were issued in an action in the circuit court, and shall, under the direction of the board, administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the board. Disobedience of such a subpoena and false swearing before the secretary or the board shall be attended by the same consequences and be subject to the same penalties as if such diso-

bedience or false swearing occurred in an action in the circuit court;

(5) Members of the board shall serve without compensation, except the member acting as the secretary, and except that board members shall be paid actual expenses in the performance of official duties on islands other than Oahu. [L. 1947, c. 192, s. 6.]

[**Sec. 2451.07.**] Section 7. **Meetings of the board.** The board shall meet in Honolulu, on the second Tuesday in January and July, of each year, and at such other times and places as the board may direct. The majority of members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts. [L. 1947, c. 192, s. 7.]

[**Sec. 2451.08.**] Section 8. **Records of board.** The board shall keep a record of all of its proceedings and activities including all applications, and the action taken thereon. The books and records of the board shall be prima facie evidence of matters therein contained, and shall constitute public records. Originals of all records, correspondence, and other documents shall be deposited with the archives at Honolulu within six months after the close of each fiscal year. [L. 1947, c. 192, s. 8.]

[**Sec. 2451.09.**] Section 9. **Salary of secretary.** The secretary of said board shall receive an annual salary to be fixed by the board, but not to exceed six hundred dollars ($600.00), and his necessary expenses actually incurred in the performance of his official duties, which expenses and salary shall be paid from the funds of said board. The secretary shall not be subject to the classification law or be a member of the employees' retirement system of the Territory. [L. 1947, c. 192, s. 9.]

[**Sec. 2451.10.**] Section 10. **Bond of treasurer.** The treasurer of said board shall give a surety bond payable to the board, in the sum of three thousand dollars ($3,000.00), approved by said board, conditioned for the faithful performance of the duties of this office. Such bond shall have the approval of the board, and shall be in the form provided for by section 484, as amended, of the Revised Laws of Hawaii 1945. Said bond shall have the oath of office endorsed thereon, and it shall be deposited with the president of the board and kept in his office. The premiums shall be paid from the funds of the board. [L. 1947, c. 192, s. 10.]

[**Sec. 2451.11.**] Section 11. **Assistance to board.** The board may call to its aid any person or persons of established reputation and known ability in their profession, for the purpose of conducting examinations, inspection and investigations of any or all persons, firms or corporations affected by this Act. [L. 1947, c. 192, s. 11.]

[Sec. 2451.12.] Section 12. **Application for examination.** Each person who desires to practice the occupation of masseur designated to be within the meaning of this Act shall file with the secretary of the said board a written application under oath, on a form prescribed and supplied by said board, and shall submit such credentials as may be required by the rules and regulations established by the board, and shall also pay the secretary the required fees. [L. 1947, c. 192, s. 12.]

[Sec. 2451.13.] Section 13. **Requisites for admission to examination and registration of masseurs and massage parlors or salons.**

(1) **Masseurs.** The secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and registration.

(a) An applicant for examination under this Act shall have an education equivalent to the completion of the eighth grade of grammar school, one year of continuous residence in the Territory of Hawaii, a medical report which shall include an x-ray examination of the chest and a blood test for syphilis made within thirty (30) days prior to the date of application by a duly licensed physician of the Territory of Hawaii, and shall have been certified as to good moral character by two reputable resident citizens. An examination fee of ten dollars ($10.00) shall be paid to the secretary at the time of the application.

(b) All persons, massage parlors or salons, who were engaged in the actual and continuous practice of massage in the Territory of Hawaii prior to the passage of this Act, shall be entitled to a certificate of registration under this Act without an examination, upon payment of a registration fee and a medical report as set forth in this section above.

(c) The board may dispense with examinations of applicants as provided in this Act, subject to the residence requirement hereinabove set forth, and may grant certificates of registration upon the payment of the required fees and a medical report as provided in this Act, **provided** that such applicant has complied with the requirements of a state, territory or district of Columbia, wherein the requirements are substantially equal to the requirements then in force in this Territory.

(2) **Massage establishments.** Applicants desiring to register a massage parlor or salon shall file with the secretary of the said board a written application under oath, on a form prescribed and supplied by said board, and setting forth that he has complied with all of the requirements in such manner and detail as may be required by the rules and regulations established by said board. A registration fee of five dollars ($5.00) shall be paid to the secretary together with the application. [L. 1947, c. 192, s. 13.]

[**Sec. 2451.14.**] Section 14. **Examination.** The examination of applicants for certificates to practice massage under this Act shall be conducted under rules prescribed by the board, and shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method, and such examinations shall be consistent with the practical and theoretical requirements of the occupation as provided by this Act. [L. 1947, c. 192, s. 14.]

[**Sec. 2451.15.**] Section 15. **Certificates.** If an applicant to an examination for operator passes such examination to the satisfaction of said board, and has paid the fee required, the board shall issue a certificate to that effect, signed by the president and secretary and attested by its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this Act. Such certificates shall not be transferable and shall be conspicuously displayed in his or her place of business or employment. [L. 1947, c. 192, s. 15.]

[**Sec. 2451.16.**] Section 16. **Renewal of certificate.** Renewal fees. No certificate shall be issued for a longer period than one year, and all certificates shall expire on the 30th day of June next following date of issue, unless renewed for the next fiscal year as herein provided, and upon payment of the following renewal fees: Massage salon, $5.00; operators, $2.00, and a medical report as provided for in this Act. Applications for renewals of certificates, shall be made to the secretary of the board within two months prior to the date of expiration. The holder of an expired certificate for operator may have, within three (3) years of the date of expiration, the certificate restored upon due application therefor and payment of the required fees as provided in this Act. [L. 1947, c. 192, s. 16.]

[**Sec. 2451.17.**] Section 17. **Fees.** The fees for examination, certificate, and other registrations as provided in this Act, shall be paid in advance to the secretary of the board at the time of application, and by the treasurer, paid into the territorial treasury to the credit of a fund for the use of the said board. All such fees so paid are hereby appropriated for the use of the board and shall be disbursed by said treasurer upon warrants issued by the auditor, based upon vouchers approved by the board. [L. 1947, c. 192, s. 17.]

[**Sec. 2451.18.**] Section 18. **Sanitary rule.** The territorial board of health shall prescribe such sanitary rules as it may deem necessary, with particular reference to the precautions necessary to be employed to prevent the creating and spreading of infectious and contagious diseases. [L. 1947, c. 192, s. 18.]

[**Sec. 2451.19.**] Section 19. **Penalties.** Any person who shall practice massage, maintain a massage salon or parlor, or act in any capacity wherein a certificate is required, without a certificate provided in this Act, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine not to exceed five hundred dollars ($500.00), or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. [L. 1947, c. 192, s. 19.]

[**Sec. 2451.20.**] Section 20. **Appeal from actions of the board.** An appeal may be taken to the circuit judge at chambers from any action of said board refusing to grant or suspending or revoking a certificate of registration. The judgment of the circuit judge may be reviewed by the supreme court. [L. 1947, c. 192, s. 20.]

[**Sec. 2451.21.**] Section 21. **To whom provisions in this Act shall not apply.** Nothing in this Act shall prohibit service in case of emergency, or domestic administration, without compensation, nor services by persons holding any valid license, permit or certificate dealing with the healing arts, nor services by barbers, hairdressers, cosmeticians and cosmetologists lawfully carrying on their particular profession or business or under any valid existing act of this Territory regulatory thereof. [L. 1947, c. 192, s. 21.]

[**Sec. 2451.22.**] Section 22. **Deletion.** The words "masseurs" and "masseuses" are hereby deleted from paragraph (1) of subsection c. of **section 1 of Act 116** of the Session Laws of Hawaii **1945.**

Note: This refers to § **2017,** R. L. 1945.

[**Sec. 2451.23.**] Section 23. **Other laws, etc., superseded.** This Act shall supersede all other territorial, city and county and county laws, ordinances, rules and regulations relating to masseurs and masseuses and their occupation, and to massage salons or parlors.

Section 24. **Separability of provisions.** If any provision of this Act or the application of such provision to any persons or circumstances shall be held invalid the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 25. This Act shall take effect on July 1, 1947.
(Approved May 19, 1947.) **S.B. 88, Act 192.**

Chapter 45. MEDICINE AND SURGERY.

Series A-53: ACT 201

An Act Amending Chapter 45 of the Revised Laws of Hawaii 1945, Providing for and Relating to the Revocation and Suspension for Cause by the Board of Health of Licenses to Practice Medicine and Surgery and Providing for and Relating to Proceedings for Such Revocation or Suspension.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 45 of the Revised Laws of Hawaii 1945 is hereby amended by amending sections 2507, 2508, 2509, 2510, and 2511 of said chapter 45 to read as follows:

"**Sec. 2507. Revocation or suspension of licenses.** Any license to practice medicine and surgery may be revoked or suspended by the board of health at any time in a proceeding before the board of health for any one or more of the following acts or conditions on the part of the holder of such license:

1. Procuring, or aiding or abetting in procuring, a criminal abortion;

2. Employing what is popularly known as a 'capper' or 'steerer';

3. Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;

4. Wilfully betraying a professional secret;

5. Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;

6. False, fraudulent, or deceptive advertising;

7. Advertising any medicine, or any means, whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;

8. Being convicted, whether on a plea of nolo contendere or otherwise and whether or no sentence or the imposition or execution of sentence has been suspended, of a felony or of a misdemeanor involving moral turpitude;

9. Being habitually intemperate;

10. Habitually using any habit-forming drug, such as opium or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;

11. Procuring a license through fraud, misrepresentation, or deceit; or

12. Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery.

If any such license is revoked or suspended by the board of health for any act or condition listed in this section, the holder of such license shall be in writing notified by the board of health of the revocation or suspension. Any license to practice medicine and surgery which has been revoked under this section shall not be restored except by action of both the board of health and the board of medical examiners. [L. 1896, c. 60, s. 7; am. L. 1917, c. 116, s. 1; am. L. 1925, c. 26, s. 5; am. L. 1939, c. 183, pt. of s. 1; am. L. 1941, c. 4, s. 2; R. L. 1945, s. 2507; am. L. 1947, c. 201, pt. of s. 1.]

Sec. 2508. Proceeding; notice; hearing. In any proceeding before the board of health for the revocation or suspension of a license to practice medicine and surgery for any act or condition listed in section 2507, the person whose license is sought to be revoked or suspended shall be given reasonable written notice of the charge or charges upon which the proceeding is based and of the time when and place where a hearing will be held and evidence received on such charge or charges and shall be given a reasonable opportunity to be heard and present evidence in his own defense. [L. 1896; c. 60, s. 8; am. L. 1939, c. 183, pt. of s. 1; R. L. 1945, s. 2508; am. L. 1947, c. 201, pt. of s. 1.]

Sec. 2509. Witnesses in such proceeding. In any such proceeding, the board of health and each member thereof shall have the power to subpoena, to administer oaths to, and to examine under oath witnesses on any relevant matter in such proceeding. The person whose license is sought in such proceeding to be revoked or suspended shall be entitled to require the board of health or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding. [L. 1917, c. 61, s. 1; R. L. 1945, s. 2509; am. L. 1947, c. 201, pt. of s. 1.]

Sec. 2510. Recalcitrant witnesses; contempt. If any person called before the board of health as a witness in any such proceeding, whether under subpoena or otherwise, shall, except as privileged by the law, refuse to answer any question which is relevant to the proceeding and is put to him by the board, a member thereof, or the person whose license is sought to be revoked or suspended in such proceeding, or shall disobey any order of the circuit court relating to the proceeding, the board of health shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under chapter 244. [L. 1917, c. 61, s. 2; R. L. 1945, s. 2510; am. L. 1947, c. 201, pt. of s. 1.]

Sec. 2511. Perjury. Any person who shall wilfully and knowingly make under oath any false statement in connection with any such proceeding before the board of health shall be guilty of perjury and, upon conviction thereof, shall be subject to the penalty prescribed by law for perjury. Whenever the board of health is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury." [L. 1917, c. 61, s. 3; am. imp. L. 1932, 1st, c. 13, pt. of s. 1; R. L. 1945, s. 2511; am. L. 1947, c. 201, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **H.B. 487, Act 201.**

Chapter 47. MENTAL HYGIENE BUREAU.

Series A-54: ACT 55

An Act to Amend Section 2552 of the Revised Laws of Hawaii 1945, to Provide for a Child Guidance Clinic and Its Activities and Work.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2552** of the Revised Laws of Hawaii 1945 is hereby amended by the insertion, between the paragraphs numbered (1) and (2) of said section 2552, of a new paragraph as follows:

"(1.01) To conduct a child guidance clinic, and in such connection to study, gather, and make accessible informa-

tion regarding, and foster an educational program connected with, child care and development and to offer clinical service to maladjusted children;".

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1947.) **H.B. 409, Act 55.**

Note: As so amended, § 2552 reads:

Sec. 2552. Functions of the bureau; charges for services; detention of patients. The powers, duties and functions of the bureau shall be in accordance with rules promulgated by the board of health, as follows:

(1) To foster and promote a general educational program to acquaint the public with the principles of mental hygiene, and for the prevention of mental illness;

(1.01) To conduct a child guidance clinic, and in such connection to study, gather, and make accessible information regarding, and foster an educational program connected with, child care and development and to offer clinical service to maladjusted children;

(2) To cooperate, within limits fixed by such rules, with all territorial and county institutions and officials in matters relating to psychiatric problems including (a) consultations, (b) case work in connection with paroled and discharged patients from such institutions when requested by the superintendent or person in charge of any such institution;

(3) To record and compile histories, statistics and other information relating to the work of the bureau; **provided,** that nothing herein contained shall be deemed to supersede the provisions of section 9840 relating to privileged communications;

(4) To conduct an in-patient and out-patient mental hygiene clinic for the examination, study, diagnosis, and treatment of cases of mental illness, and in such connection: (a) to make such arrangements as may be necessary within available appropriations and subject to the provisions of this chapter to maintain such clinic on the island of Oahu at or in conjunction with any individuals, hospitals, and institutions, whether governmental, charitable, or private approved by the board of health; (b) within available appropriations to extend the services of such clinic to other islands as needed by means of visits, resident workers, and other supplementary services, and to make necessary arrangements for needed facilities therefor with any individuals, hospitals, and institutions, whether governmental, charitable, or private approved by the board of health; (c) to determine through the director which cases are appropriate for treatment by the clinic; (d) to make reasonable charges for professional and other personal services rendered to patients, but in making such charges the financial circumstances of the patient shall be taken into consideration; **provided,** that no such charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or deprive his dependents of necessary support; (e) to furnish medicines and other supplies with or

without expense to any patient as deemed appropriate by the director, but charges for services, medicines and other supplies furnished by any hospital shall be paid by the patient to the hospital, except that in the case of any indigent such charges shall be paid by the department of public welfare.

When any in-patient mental hygiene clinic is conducted, any person who is admitted thereto for examination, study, diagnosis and treatment may be detained therein until he is discharged, or until he is committed or admitted to the territorial hospital as in chapter 69 provided; but when any such person so admitted for examination, study, diagnosis and treatment, or any other person on his behalf, shall object to his detention therein and shall make written demand on the director for his release, he shall be released unless in the opinion of the director he is insane, and in any event he shall be released after such demand unless within forty-eight hours (Sundays and holidays excluded) from the time of receipt of such demand an application has been made by the director for an order of commitment to the territorial hospital, or an order of temporary commitment to a county detention ward as in chapter 69 provided or to the mental hygiene clinic as the magistrate or judge may decide. [L. 1939, c. 257, pt. of s. 1; am. L. 1941, c. 325, s. 8; R. L. 1945, s. 2552; am. L. 1945, c. 102; am. L. 1947, c. 55, s. 1; am. L. 1947, c. 6, s. 1.]

Series A-55: ACT 6

An Act Amending Section 2552, as Amended, of the Revised Laws of Hawaii 1945, Relating to the Bureau of Mental Hygiene of the Board of Health.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2552,** as amended, of the Revised Laws of Hawaii 1945 is hereby further amended by substituting for the words "county in which he resides" in the fifth line of the paragraph marked (4) (e) in said section, the words "department of public welfare".

Section 2. This Act shall take effect upon its approval.

(Approved April 19, 1947.) **S.B. 198, Act 6.**

Note: Hospital services, medicines, etc. for **indigent** patients of mental hygiene bureau are to be paid by the "department of public welfare." See supra Act 55 (A-54) for section rewritten as now amended.

Series A-56: ACT 101

An Act to Amend Chapter 47 of the Revised Laws of Hawaii 1945 Relating to the Bureau of Mental Hygiene by Including Therein Section 2552.01 Relating to Transportation Expenses of Patient and Attendant and Compensation of Attendant.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 47 of the Revised Laws of Hawaii 1945 is hereby amended to include between sections 2552 and 2553 of said chapter 47 a new section numbered section 2552.01 and reading as follows:

"**Sec. 2552.01. Conveying medically indigent persons to and from the Honolulu clinic of the bureau of mental hygiene.** The bureau of mental hygiene, from any available funds, may pay the expense of transportation of any medically indigent mentally ill person and the attendant accompanying such person from anywhere in the Territory to and from the clinic of the bureau of mental hygiene at Honolulu, Oahu, and compensation to such attendant not to exceed ten dollars per day." [L. 1947, c. 101, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **H.B. 371, Act 101.**

Chapter 52. NURSES.

Series A-57: ACT 240

An Act to Amend Chapter 52 of the Revised Laws of Hawaii 1945, as Amended, Relating to Nursing and Nurses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 52 of the Revised Laws of Hawaii 1945, as amended by Act 103 of the Session Laws of Hawaii 1945, is hereby further amended as follows:

(1) By further amending section 2770, as amended, to read as follows:

"**Sec. 2770. Definitions.** The practice of nursing. A person practices nursing within the meaning of this chapter, who for compensation or personal profit (a) performs any professional services requiring the application of principles of nursing based on biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts and carrying out of treatments and medications as prescribed by a licensed

physician, and the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others; or (b) performs such duties as are required in the physical care of a patient and in carrying out of medical orders as prescribed by a licensed physician, requiring an understanding of nursing but not requiring the professional service as outlined in (a).

Registered nurse in this chapter shall mean one who meets the qualifications as set forth under this section in the definition of the 'practice of nursing'.

Practical nurse in this chapter shall mean one who meets the qualifications as set forth under this section in the definition of the 'practice of nursing'.

Board in this chapter shall mean the board for the licensing of nurses of the Territory of Hawaii which is established by this chapter.

Accredited in this chapter shall mean investigated and approved by the board." [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, pt. of s. 1.]

(2) By further amending section 2771, as amended, to read as follows:

"**Sec. 2771. Board, appointment of members, term, tenure, compensation.** There is hereby established the board for the licensing of nurses of the Territory of Hawaii. The members of the board shall be five licensed registered nurses of the Territory who shall be appointed and may be removed by the governor pursuant to the provisions of section 80 of the Organic Act.

Each member of the board shall serve a term of five years or until a successor is appointed and qualified. On July 1 of each year the term of one member of the board shall expire. Any vacancy shall be filled by appointment for the remainder of the unexpired term.

The board shall have a chairman and secretary who shall be elected annually from among its members.

Members of the board shall serve without compensation except the member acting as secretary and except that board members shall be paid actual expenses in the performance of official duties on islands other than Oahu.

Any other law to the contrary notwithstanding, the board shall be authorized to employ, discharge, fix the compensation of, and compensate all necessary employees of the board. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, pt. of s. 1.]

Note: § 2772 was amended L. 1945, c. 103 (A-54).

(3) By further amending **section 2773**, as amended, as follows:

(a) Substitute for that portion of the first paragraph of section 2773, as amended, following the title line, the following:

"**Registered nurse.** Each applicant for a license of registered nurse under this chapter shall furnish satisfactory proof to the board of being at least 20 years of age and in good physical and mental health and condition, shall pay to the board an application fee of $15.00 and shall take and pass the examination of the board. Upon being found qualified to be licensed as a registered nurse, such applicant shall be so licensed.

Practical nurse. Each applicant for the license of practical nurse under this chapter shall furnish satisfactory proof to the board of being at least 19 years of age and in good physical, mental health and condition, shall pay to the board an application fee of $10.00 and shall take and pass the examination of the board. Upon being found qualified to be licensed as a practical nurse such applicant shall be so licensed.

Every license issued under this chapter shall be in the form prescribed by the board and shall be signed by the chairman of the board."

Further amend the second paragraph of section 2773, as amended, by substituting the word "licensed" for the word "registered"; by adding between the words "jurisdiction" and "and", the words: "under laws which, in the opinion of the board, maintain a standard substantially similar to that established under this chapter and who otherwise meets the standards established by the board".

Add a paragraph between paragraphs two and three of section 2773, as amended, as follows:

"The board shall also have power, in cases of emergency affecting the health and safety of the community (the existence of which such board shall be entitled, in its discretion, to determine), to waive in writing the requirements of qualifications and examinations established by this chapter, either as to individuals or generally for a specific time fixed in such waiver."

Amend the last paragraph of said section 2773, as amended, to read as follows:

"Expenses of the board and its members shall be paid from the fees received by the board under this chapter, which fees and all other moneys received by the board shall be kept in a special fund in the treasury of the Territory."

Further amend the title of said section 2773, as amended, by changing the period to a semi-colon and adding the word "expenses". [See note at end of this act.]

(4) By amending **section 2774** by deleting the entire section.

(5) By amending **section 2775** by deleting the word "registered". [See note at end of this act.]

(6) By amending **section 2776** by deleting the entire section.

(7) By amending **section 2777** as follows:

By substituting the word "chapter" for the word "Act" in the first sentence of said section.

By substituting for the third sentence of said section the following sentence:

"It shall examine and investigate applicants for licenses and shall determine whether such applicants are qualified for the licenses for which they are applying."

By substituting for the words "examine, license and renew the certificates" the words "examine and license duly qualified applicants, and shall have the power to issue, renew, suspend, and revoke certificates of license".

By substituting for the last sentence of said section the following sentence:

"If any person shall wilfully testify falsely under oath before the board or shall wilfully make a false affidavit for any proceeding before the board, such person shall be guilty of perjury and subject to the penalties for perjury."

By placing the letters (a), (b), (c), (d) and (e) in parenthesis respectively before the first, second, third, fourth and fifth sentence in this section, thus making a paragraph of each such sentence. [See note at end of this act.]

(8) By amending **section 2778** by substituting the phrase "licensed under this chapter" for the phrase "registered hereunder". [See note at end of this act.]

(9) By amending **section 2779** by substituting the word "chapter" for the word "Act" in the first sentence.

(10) By amending **section 2780** by substituting for the first sentence the following:

"**Sec. 2780. Penalty.** It shall be unlawful for any person, except as authorized by law, to practice or offer to practice nursing for compensation in the Territory as a registered or practical nurse unless such person is licensed, as the case may be, as a registered or practical nurse under this chapter. It shall be unlawful for any person to assume or use the title 'registered nurse' or 'practical nurse' or to use in connection with his or her name the abbreviation 'R.N.' or to represent themselves to be a registered or practical nurse unless licensed under this chapter as such registered or practical nurse." [See note at end of this act.]

(11) By amending **section 2781** by substituting for the word "Act" the word "chapter".

Section 2. The further amendment, by section 1 of this Act, of section 2771, as amended, of said Revised Laws, shall not be construed as terminating the terms of the present members who shall serve until the end of the terms for which they were appointed, notwithstanding the provision in said section, as amended, that all five members shall be nurses.

Section 3. This Act shall take effect on July 1, 1947.

(Approved May 26, 1947.) **S.B. 469, Act 240.**

Note: As amended, §§ 2773, 2775, 2777, 2778 and 2780 now read:

Sec. 2773. Licensing; revocation and suspension of certificates; expenses. Registered nurse. Each applicant for a license of registered nurse under this chapter shall furnish satisfactory proof to the board of being at least 20 years of age and in good physical and mental health and condition, shall pay to the board an application fee of $15.00 and shall take and pass the examination of the board. Upon being found qualified to be licensed as a registered nurse, such applicant shall be so licensed.

Practical nurse. Each applicant for the license of practical nurse under this chapter shall furnish satisfactory proof to the board of being at least 19 years of age and in good physical, mental health and condition, shall pay to the board an application fee of $10.00 and shall take and pass the examination of the board. Upon being found qualified to be licensed as a practical nurse such applicant shall be so licensed.

Every license issued under this chapter shall be in the form prescribed by the board and shall be signed by the chairman of the board.

The board shall have the power to waive the examination of any applicant, otherwise qualified, upon satisfactory proof that the applicant has been licensed as a nurse in another jurisdiction under laws which, in the opinion of the board, maintain a standard substantially similar to that established under this chapter and who otherwise meets the standards established by the board and has been graduated from a training school for nurses accredited by the League of Nursing Education.

The board shall also have power, in cases of emergency affecting the health and safety of the community (the existence of which such board shall be entitled, in its discretion, to determine), to waive in writing the requirements of qualifications and examinations established by this chapter, either as to individuals or generally for a specific time fixed in such waiver.

The board after hearing may, by a vote of a majority of its members, revoke any certificate issued by it and cancel the license of any nurse or suspend such certificate for any of the following causes:

1. Wilful betrayal of a professional secret;
2. Conviction of any offense involving moral turpitude;
3. Habitual intemperance;
4. Habitual use of habit-forming drugs, such as opium, or any of its derivatives, morphine, heroin or cocaine;
5. Gross carelessness or manifest incapacity;
6. Affliction with a contagious or communicable disease.

In case any license is revoked or suspended for any of the causes named, the holder thereof shall be immediately notified in writing by the board of such revocation or suspension.

Every licensed nurse shall, between July 1 and September 1 of each year, renew his certificate by registering with the board and by paying a renewal fee of one dollar. Every certificate that is not so renewed shall expire on September 1, and shall not be renewed except upon the payment of the lapsed fee.

Expenses of the board and its members shall be paid from the fees received by the board under this chapter, which fees and all other moneys received by the board shall be kept in a special fund in the treasury of the Territory. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, s. 1.]

[Sec. 2774, repealed, L. 1947, c. 240, s. 1 (4).]

Sec. 2775. Persons eligible for examination, etc. No person shall be eligible for examination or for licensing as a nurse, who shall not furnish satisfactory evidence of having been graduated from an accredited training school for nurses. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this chapter, relative to qualifications. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, s. 1.]

[Sec. 2776, repealed, L. 1947, c. 240, s. 1 (6).]

Sec. 2777. Powers and duties of board. (a) The board shall examine and approve curricula and standards for schools and courses preparing persons for licensing under this chapter. (b) It shall provide for surveys of such schools and courses at such time as it may deem necessary or desirable. (c) It shall examine and investigate applicants for licenses and shall determine whether such applicants are qualified for the licenses for which they are applying. (d) It shall examine and license duly qualified applicants, and shall have the power to issue, renew, suspend, and revoke certificates of license of duly qualified applicants. (e) It shall have power to make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed thereunder, and in the course of such investigations before the board, each member of the board shall have power to administer oaths.

In all investigations made by the board and in all proceedings before it, the board shall have the same powers respecting compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. All subpoenas shall be signed by the chairman of the board.

If any person subpoenaed as a witness to attend before the board, or to produce any books, papers, or records called for by the process of the board, shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the board, material to the matter pending before the board, it shall be the duty of any circuit judge, on application

by the board, or any member thereof, to compel obedience to any process of the board and to require any witness to answer questions put to him as aforesaid, and to punish as a contempt of court any refusal to comply with the court's order unless good cause is shown therefor. If any person shall wilfully testify falsely under oath before the board or shall wilfully make a false affidavit for any proceeding before the board, such person shall be guilty of perjury and subject to the penalties for perjury. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, s. 1.]

Sec. 2778. **Same; reports.** The board shall keep a record of the names of all persons licensed under this chapter, and of all moneys received and disbursed by it. The board shall annually, on or before July 1, make a report to the governor of the condition of nursing in the Territory, of all its official acts during the preceding year, and of its receipts and disbursements. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, s. 1.]

[Sec. 2779, word "act" changed to "chapter", 1st sentence.]

Sec. 2780. **Penalty.** It shall be unlawful for any person, except as authorized by law, to practice or offer to practice nursing for compensation in the Territory as a registered or practical nurse unless such person is licensed, as the case may be, as a registered or practical nurse under this chapter. It shall be unlawful for any person to assume or use the title "registered nurse" or "practical nurse" or to use in connection with his or her name the abbreviation "R.N." or to represent themselves to be a registered or practical nurse unless licensed under this chapter as such registered or practical nurse. Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars. [L. 1945, c. 103, pt. of s. 1; am. L. 1947, c. 240, s. 1.]

[Sec. 2781 amended, word "act" changed to "chapter".]

Chapter 54. OSTEOPATHY.

Series A-58: ACT 185

An Act to Amend Chapter 54 of the Revised Laws of Hawaii 1945, Relating to Osteopathy.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 54 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending section 2855 thereof to read as follows:

"Sec. 2855. **Fees.** No applicant for a license to practice as an osteopathic physician or as an osteopathic physician and surgeon shall be examined until he shall have paid to

the board of osteopathic examiners a fee of twenty-five dollars. All fees so received shall be paid to the board of health at the time notification is given by the board of examiners of the result of said examination." [L. 1921, c. 14, s. 5; am. L. 1925, c. 27, s. 4; R. L. 1945, s. 2855; am. L. 1947, c. 185, pt. of s. 1.]

2. By amending section 2856 thereof to read as follows:

"**Sec. 2856. Application for license.** Each applicant for a license provided for in this chapter shall comply with the following requirements:

(a) Make application on blank forms prepared and furnished by the board of osteopathic examiners.

(b) Submit evidence verified on oath and satisfactory to the board that the applicant is twenty-one years of age, or over, is of good moral character and is a graduate of a school or college of osteopathy which is approved by the American Osteopathic Association.

(c) Designate on his application whether he desires to practice as an osteopathic physician or as an osteopathic physician and surgeon." [L. 1921, c. 14, s. 6; R. L. 1945, s. 2856; am. L. 1947, c. 185, pt. of s. 1.]

3. By amending section 2859 to read as follows:

"**Sec. 2859. Osteopathic physician and surgeon distinguished.** In addition to the requirements specified in section 2856 (b), the applicant for a license to practice as an osteopathic physician and surgeon shall submit satisfactory evidence to the board of examiners:

(a) That he has served an internship of at least one year in a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons, or the equivalent of this requirement as determined by the board, if the applicant graduated prior to and including 1942.

(b) In addition to the year of internship, he shall submit certified evidence that he has served at least one year as an assistant to a qualified surgeon or surgeons." [L. 1921, c. 14, s. 9; R. L. 1945, s. 2859; am. L. 1947, c. 185, pt. of s. 1.]

4. By amending section 2860 thereof in the following respects:

(a) By inserting in the second line of the paragraph numbered (1), between the words "chartered" and "colleges", the words "and approved".

(b) And by inserting in the fifth line of said paragraph numbered (1) after the word "parasiticides" the word "biologicals".

5. By amending **section 2861** thereof in the following respects:

(a) By inserting in the fifth line of the paragraph numbered (4) after the word "an", the word "approved".

(b) By adding, at the end of said section, the following:

"The fee for such licenses shall be thirty-five dollars and shall be paid to the board of examiners at the time of application. In case the application is not approved by the board of examiners, the fee shall be returned to the applicant."

6. By amending **section 2864** thereof by adding thereto a new paragraph to be numbered 8., and to read as follows:

"8. Procuring or aiding or abetting in procuring a criminal abortion."

Section 2. **Sections 2857 and 2858** of said Revised Laws are hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 393, Act 185.**

Note: As amended, §§ 2860, 2861, and 2864 read:

Sec. 2860. License issued. Each applicant who successfully passes the examination shall be entitled to a license. The following kinds of license shall be issued:

1. To practice as an osteopathic physician in accordance with the teach ings of legally chartered and approved colleges of osteopathy in good standing, with the following rights, among others, to wit: to practice obstetrics; to practice surgery, other than major surgery; and to administer anesthetics, antiseptics, germicides, parasiticides, biologicals, narcotics and antidotes;

2. To practice as an osteopathic physician and surgeon. This license confers unlimited surgical rights, as well as the right to practice in all other respects as an osteopathic physician. [L. 1921, c. 14, s. 10; R. L. 1945, s. 2860; am. L. 1947, c. 185, pt. of s. 1.]

Sec. 2861. Foreign license. The board of osteopathic examiners, may in its discretion, report favorably and require the issuance of a license, without examination, to a practitioner who has been licensed in any country, state, territory or province, upon the following conditions:

1. That the applicant is of good moral character;

2. That the applicant shall designate in his application whether he desires to practice as an osteopathic physician, or as an osteopathic physician and surgeon;

3. That the requirements for a license in the country, state, territory or province in which the applicant is licensed, are deemed by the board of osteopathic examiners to have been practically equivalent to the requirements for a license in force in the Territory at the date of such license;

4. That the applicant shall have practiced his profession as an osteopathic physician for three years prior to the date of his application.

The board of osteopathic examiners may also, in its discretion, report favorably and require the issuance of a license, without examination, to an osteopathic physician who is a graduate of an approved osteopathic

college in good standing and who has passed an examination for admission into the medical corps of the United States army, United States navy, or the United States public health service. The fee for such licenses shall be thirty-five dollars and shall be paid to the board of examiners at the time of application. In case the application is not approved by the board of examiners, the fee shall be returned to the applicant. [L. 1921, c. 14, s. 11; R. L. 1925, s. 1045; R. L. 1935, s. 1400; R. L. 1945, s. 2861; am. L. 1947, c. 185, s. 1.]

Sec. 2864. Refusal and revocation of license. The board of osteopathic examiners may either refuse to recommend the issuance of a license or may suspend or revoke any license for any one or any combination of the following causes:

1. Conviction of a felony, as shown by a certified copy of the record of the court of conviction;

2. The obtaining of or an attempt to obtain a license, or practice in the profession, or money, or any other thing of value, by fraudulent misrepresentation;

3. Gross malpractice;

4. Continued practice by a person knowingly having an infectious or contagious disease;

5. Advertising by means of knowingly false or deceptive statements;

6. Advertising, practicing or attempting to practice under a name other than one's own;

7. Habitual drunkenness, or habitual addiction to the use of morphine, cocaine, or other habit-forming drug.

8. Procuring or aiding or abetting in procuring a criminal abortion.

The board of osteopathic examiners may neither refuse to recommend the issuance of a license, nor refuse to recommend the renewal of a license, nor suspend, nor revoke any license, however, for any of these causes, unless the person accused has been given at least twenty days' notice, in writing, of the charge against him and a public hearing by the board.

The board of osteopathic examiners shall have the power to compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

The circuit court of the circuit in which the hearing is held shall have power to enforce, by proper proceeding, the attendance and testimony of witnesses so subpoenaed and the production of books and papers so ordered. [L. 1921, c. 14, s. 14; R. L. 1925, s. 1048; am. L. 1925, c. 27, s. 5; R. L. 1935, s. 1403; R. L. 1945, s. 2864; am. L. 1947, c. 185, s. 1.]

Note: To Chapter 55, Pharmacists, etc.: §§ **2901-02** were amended L. 1945, c. 155 (A-55) and § **2903** was repealed by same act.

Note: To Chapter 56, Poisons: §§ **2951-52** were amended L. 1945, c. 139 (A-56).

Chapter 60. VITAL STATISTICS, etc.

Series A-59: ACT 54

An Act to Amend Section 3116 of the Revised Laws of Hawaii 1945, Relating to Certified Copies of Records of Birth, Stillbirth, Marriage, or Death and Certifications of Birth.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3116** of the Revised Laws of Hawaii 1945 is hereby amended as follows:

(a) By substituting for the phrase "relates and" in the eighteenth line of said section 3116 the phrase "relates, and the registered number and volume of the record of such birth, the date of such record, and the date of the issuance of such certification, and";

(b) By substituting for the phrase "certified copy" wherever it appears in the twenty-ninth line of said section 3116 the phrase "certified copy or such certification of birth"; and

(c) By substituting for the word "records" in the thirty-second line of said section 3116 the phrase "records or a certification of birth".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **H.B. 265, Act 54.**

Note: As so amended, § 3116 reads:

Sec. 3116. Certified copies of records of birth, stillbirth, marriage and death; certifications of birth; evidence; fee. Subject to the provisions of section 3121, and subject to the conditions and exceptions hereinafter provided, the registrar general shall furnish to any person applying for the same a certified copy of the record of any birth, stillbirth, marriage or death contained in any of the records kept under or by virtue of this chapter; **provided,** however:

(a) That a certified copy of the record of birth shall be issued only upon order of a court of competent jurisdiction, or upon a specific request for such certified copy by the person, if of legal age, or by a parent or other lawful representative of the person, to whose birth the record relates, except that the registrar general may issue a certified copy of a birth record or certification of birth as may be necessary for official use upon the request of a department, agency or officer of any territorial, state or federal government or subdivision thereof; and

(b) That in all other proper cases of requests for certification as to the birth record of any person, the registrar general shall issue a certification of birth, which shall contain only the name, sex, date of birth and place

of birth of the person to whom it relates, and the registered number and volume of the record of such birth, the date of such record, and the date of the issuance of such certificate, and none of the other data on the record of birth; **provided,** further, that the registrar general may inquire as to the reason for any such request, and may refuse such request if certification does not appear to be necessary or required for a proper purpose.

Such certified copy of a record of birth, stillbirth, marriage or death, or certification of birth, when properly certified by the registrar general, shall be prima facie evidence of the facts therein stated, in all courts, and places, and in all actions, proceedings or applications, judicial, administrative or otherwise; and any such certification of birth shall be accepted with the same force and effect with respect to the facts therein stated as the original birth record or a certified copy thereof.

For any such certified copy or such certification of birth the sum of one dollar shall be charged and paid and accounted for to the treasury of the Territory; **provided,** however, that the registrar general shall furnish free of charge a certified copy of any of said records or a certification of birth to any department, agency, or officer of any territorial, state or federal government or subdivision thereof, or to representatives of the consular corps, or to any domestic or foreign corporation, association or organization not operated for profit which engages in public charity; **provided,** further, that the registrar general upon application of the parent or guardian of any child, shall certify, free of charge, whenever the same is required for the admission of any child to a public or private school or for the purpose of securing employment for such child, as to the name, date and place of birth of such child as shown upon the aforesaid records kept under or by virtue of this chapter; **provided,** further, that the director of the census of the United States or any of his assistants, acting in their official capacity, may obtain, free of charge transcripts of the said records of births, stillbirths and deaths. [L. 1896, c. 50, s. 19; am. L. 1913, c. 86, s. 4; R. L. 1925, s. 1222; am. L. 1929, c. 107, s. 1; am. L. 1932, 2d, c. 10, s. 1; R. L. 1935, s. 1482; am. L. 1943, c. 217, s. 1; R. L. 1945, s. 3116; am. L. 1947, c. 54, s. 1.]

(See s. 12912, Hawaiian birth certificates; s. 9901, birth certificates U. S. Departments. Death, 32 H. 387, 391.)

Note: § **3120.01,** re abandoned child was added L. 1945, c. 64 (A-57).

Title 7: HOUSING.

Chapter 61. HAWAII HOUSING AUTHORITY.

Amended 1947 by **Joint Resolution 4,** post. See also L. 1945 for other amendments.

Title 8: INSTITUTIONS.

Chapter 68. PRISONS, etc.

Sec. **3936** was amended L. 1945, c. 247 (A-61).

Secs. 3968 to 3971, repealed by L. 1947, c. 246 (A-38), ante.

Chapter 70. WAIMANO HOME.

Sec. 4068 was amended L. 1945, c. 193 (A-65).

Series A-60: ACT 183

An Act to Amend Chapter 70 of the Revised Laws of Hawaii 1945 to Include a New Section Numbered Section 4077, Relating to the Employment and Compensation of Patients at Waimano Home.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 70 of the Revised Laws of Hawaii 1945 is hereby amended to include a new section numbered section 4077 and reading as follows:

"**Sec. 4077. Compensation for labor by patients of Waimano Home.** Any patient at Waimano Home employed by the Territory at Waimano Home may be allowed such compensation for his work at Waimano Home as the director shall by rule determine. No such patient shall, because of his work at Waimano Home, be a member of the employees' retirement system of the Territory of Hawaii or a member of the civil service of the Territory or subject to classification by the personnel classification board of the Territory." [L. 1947, c. 183, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 358, Act 183.**

Title 9: LABOR.

Chapter 71. DEPARTMENT OF.

Series A-61: ACT 49

An Act to Amend Section 4121 of Chapter 71, Revised Laws of Hawaii 1945, as Amended by Act 9 of the Session Laws of Hawaii 1945, Relating to Child Labor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4121** of chapter 71 of the Revised Laws of Hawaii 1945, as amended by Act 9 of the Session Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By amending the first paragraph thereof to read:

"Nothing in this section shall be construed to apply to the work of a minor in other than hazardous occupation if the work is performed when such minor is not legally required to attend school and is performed directly for his parents or guardian, nor to the work of a minor performed in connection with the sale or distribution of newspapers or in domestic service in or about a private home."

(2) By substituting for the word "twelve" in the third line of subsection (a) the word "fourteen".

(3) By deleting subsection (d).

(4) By amending the second and third paragraphs of subsection (e) to read:

"Persons designated to issue employment certificates may refuse to issue a certificate if in their judgment the nature of the employment or the place thereof is such as to injuriously affect the health, safety and morals of the minor or contribute toward his delinquency.

Every employer receiving an employment certificate shall, immediately after termination of the employment, return said certificate to the office from which the same was issued, showing thereon the date of termination. The director may revoke or suspend any employment certificate if in his judgment it was improperly issued, the minor is illegally employed, or the nature of the employment or the place thereof is such as to injuriously affect the health, safety and morals of the minor or contribute toward his delinquency."

Section 2. This Act shall take effect on July 1, 1947.

(Approved May 6, 1947.) **H.B. 19, Act 49.**

Note: As so amended, § 4121 reads:

Sec. 4121. Child labor, certificates; penalty. Nothing in this section shall be construed to apply to the work of a minor in other than hazardous occupation if the work is performed when such minor is not legally required to attend school and is performed directly for his parents or guardian, nor to the work of a minor performed in connection with the sale or distribution of newspapers or in domestic service in or about a private home.

(a) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation at any time; **provided,** that minors between fourteen and sixteen years of age may work when not legally required to attend school but not in any occupation prohibited by law.

(b) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any power-driven machinery, nor shall any minor under eighteen years of age be employed in any occupation which the commission shall, after public hearing thereon, by rule declare to be particularly hazardous for the employment of such minor or detrimental to his life, health, safety or well-being, nor shall any such minor under sixteen years of age be employed or permitted to work in, about, or in connection with any gainful occupation more than six consecutive days in any one week, or more than forty hours in any one week, or more than eight hours in any one day, or before seven o'clock in the morning or after six o'clock in the evening of any day. The combined hours of work and hours in school of minors under sixteen employed outside school hours shall not exceed a total of nine per day.

The commission, for good cause, may, by rule or regulation, make a variation in the number of days per week, and in the hours specified in this subsection for the commencement and termination of the work-day, where such variation will not be detrimental to the health or well-being of such minors.

(c) No minor under sixteen years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period, and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work.

(d) No minor under eighteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment certificate for such minor issued by persons appointed by the director in such form and under such conditions as he may prescribe. Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during times when said minor is not legally required to attend school.

Persons designated to issue employment certificates may refuse to issue a certificate if in their judgment the nature of the employment or the place thereof is such as to injuriously affect the health, safety and morals of the minor or contribute toward his delinquency.

Every employer receiving an employment certificate shall, immediately after termination of the employment, return said certificate to the office from which the same was issued, showing thereon the date of termination. The director may revoke or suspend any employment certificate if in his judgment it was improperly issued, the minor is illegally employed, or the nature of the employment or the place thereof is such as to injuriously affect the health, safety and morals of the minor or contribute toward his delinquency.

(e) **Penalty.** Any person who wilfully violates any provision of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both such fine and imprisonment. [L. 1939, c. 237, s. 1 (18); am. L. 1941, c. 319, s. 1; R. L. 1945, s. 4121; am. L. 1945, c. 9, s. 1; am. L. 1947, c. 49, s. 1.]

§ **4122** was repealed, L. 1945, c. 9 (A-66); § **4146** was amended L. 1945, c. 22 (A-67) and § **4148** was added by same act; § **4150.01-.20** were added L. 1945, c. 250 (A-68) re Labor Relations Act.

Chapter 73. LABOR DISPUTES, PUBLIC UTILITIES.

Series A-62: ACT 53

An Act to Amend Chapter 73, Revised Laws of Hawaii 1945, Relating to Labor Disputes Affecting Public Utilities.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 73, Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By deleting **sections 4164, 4165, and 4166.**

(2) By amending the first paragraph of section 4167 to read:

"**Sec. 4167. Board of mediation to act when; procedure.** In the event a dispute between a public utility and its employees is not settled by the parties thereto and the public utility proposes or intends to declare or cause a lockout or the employees interested in the dispute propose or intend to go on strike, the party to the dispute intending to institute a lockout or strike, as the case may be, shall first give written notice of such intention to the director, whereupon the director shall, within three days after receipt of such notice, appoint a board of mediation under section 4115."

Note: See at end of this Act for rewritten sections.

(3) By amending the fourth paragraph of **section 4167** to read:

"After the notice required by this section is given and until the expiration of twelve days from receipt of the board's report by the director, no change in the conditions prevailing before the actual or proposed change out of which the dispute arose shall be made by the parties to the dispute except by agreement, and during such time no lockout or strike shall be instituted."

(4) By deleting from the second line in the first paragraph of **section 4168** the words "interested therein".

(5) By amending the second paragraph of **section 4168** to read:

"After the creation of such board and until the expiration of twelve days from receipt of the board's report by the governor, no change in the conditions out of which the dispute arose shall be made by the parties to the dispute except by agreement, and during such time no lockout or strike shall be instituted."

(6) By inserting after the second paragraph of **section 4168** a new paragraph to read:

"The employer involved in the dispute shall not hire, during the aforementioned period, any new employee except those approved by the director as necessary to the normal conduct of the employer's business."

(7) By deleting from the second and third lines of the first paragraph of **section 4170** the words "notice as in section 4164 provided, or to meet or to confer as in section 4166 provided, or to give the".

(8) By amending the second and third paragraphs of **section 4170** to read:

"Any public utility declaring or causing a lockout without giving the notice required by this chapter, or otherwise contrary to the provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five thousand dollars, or in the case of an individual by either such fine or by imprisonment for not more than six months.

Any employee who goes on a strike without the notice required by this chapter having been given, or otherwise contrary to the provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months."

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **H.B. 218, Act 53.**

Note: As so amended, §§ 4167, 4168 and 4170 read:

Sec. 4167. Board of mediation to act when; procedure. In the event a dispute between a public utility and its employees is not settled by the parties thereto and the public utility proposes or intends to declare or cause a lockout or the employees interested in the dispute propose or intend to go on strike, the party to the dispute intending to institute a lockout or strike, as the case may be, shall first give written notice of such intention to the director, whereupon the director shall, within three days after receipt of such notice, appoint a board of mediation under section 4115.

The board of mediation shall promptly put itself in communication with the parties to the dispute, and shall investigate the facts as to the controversy and use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable settlement through mediation shall be unsuccessful, the said board shall at once endeavor as its final required action, except as provided in the next paragraph of this section, to induce the parties to submit their controversy to arbitration in accordance with the provisions of said section 4115.

The board of mediation shall make written report, together with its recommendations, to the director with all reasonable dispatch and not later than twelve days from the date of its creation; **provided,** however, that the twelve-day period so prescribed may be extended, from time to time, by and with the written consent of the parties to the dispute. Each such consent shall be immediately filed with the director.

After the notice required by this section is given and until the expiration of twelve days from receipt of the board's report by the director, no change in the conditions prevailing before the actual or proposed change out of which the dispute arose shall be made by the parties to the dispute except by agreement, and during such time no lockout or strike shall be instituted.

The employer involved in the dispute shall not hire, during the aforementioned period, any new employee except those approved by the director as necessary to the normal conduct of the employer's business.

Upon receipt by the director of the report of the board of mediation, he shall immediately advise the governor of its contents. [L. 1941, c. 240, s. 7; R. L. 1945, s. 4167; am. L. 1947, c. 53, s. 1.]

Sec. 4168. Emergency board, appointment, duties. If a dispute between a public utility and its employees be not adjusted and settled under the foregoing provisions of this chapter, the governor may appoint an emergency board under section 4115. Such board shall perform the duties prescribed in said section 4115, and shall make its report, together with its recommendations, to the governor with all reasonable dispatch and in any event not later than ten days from the date of its creation, and shall forthwith make such report public.

After the creation of such board and until the expiration of twelve days from receipt of the board's report by the governor, no change in the conditions out of which the dispute arose shall be made by the parties to the dispute except by agreement, and during such time no lockout or strike shall be instituted.

The employer involved in the dispute shall not hire, during the aforementioned period, any new employee except those approved by the director as necessary to the normal conduct of the employer's business.

Any expenses incurred by the director, any board or any officer under the provisions of this or the preceding section shall be paid out of funds appropriated for the department of labor and industrial relations. [L. 1941, c. 240, s. 8; R. L. 1945, s. 4168; am. L. 1947, c. 53, s. 1.]

Sec. 4170. Penalties. Any person failing, neglecting or refusing to give the notice as in section 4167 provided, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding three months.

Any public utility declaring or causing a lockout without giving the notice required by this chapter, or otherwise contrary to the provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five thousand dollars, or in the case of an individual by either such fine or by imprisonment for not more than six months.

Any employee who goes on a strike without the notice required by this chapter having been given, or otherwise contrary to the provisions of this chapter, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months.

The penalties provided by this section shall apply to any individual, person, corporation or association whether acting as principal, agent, officer, director, for himself or itself or for another person. [L. 1941, c. 240, s. 10; R. L. 1945, s. 4170; am. L. 1947, c. 53, s. 1.]

Chapter 74. UNEMPLOYMENT COMPENSATION LAW.

Series A-63: ACT 75

An Act to Amend Chapter 74 of the Revised Laws of Hawaii 1945, as Amended by Act 19 (Series A-69) of the Session Laws of Hawaii 1945, Relating to Unemployment Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 74 of the Revised Laws of Hawaii 1945, as amended by Act 19 (Series A-69) of the Session Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By adding to **section 4202** a new definition to be lettered (s) reading as follows:

"(s) The term **'American vessel'** means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state."

(2) By adding at the end of **section 4204** a new paragraph reading as follows:

"Notwithstanding any other provisions of this section, the term employment shall also include all service performed after June 30, 1946 by an officer or member of the crew of an American vessel on or in connection with such vessel, **provided** that the operating office, from which the operations of such vessel operating on navigable waters within or within and without the United States is ordinarily and regularly supervised, managed, directed and controlled, is within this Territory."

(3) By amending paragraph (D) of **section 4208** to read:

"**(D)** (i) service performed on or in connection with a vessel not an American vessel, if the individual performing such service is employed on and in connection with such vessel when outside the United States;

(ii) service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (I) service performed in connection with the catching or taking of salmon or halibut for commercial purposes, and (II) serv-

ice performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **H.B. 37, Act 75.**

Note: As so amended, §§ 4204 and 4208 read:

Sec. 4204. Place of performance. The term "employment" shall include an individual's entire service, performed within or both within and without this Territory if:

(A) the service is localized in this Territory; or

(B) the service is not localized in any state but some of the service is performed in this Territory and (i) the individual's base of operation, or, if there is no base of operation, then the place from which such service is directed or controlled, is in this Territory; or (ii) the individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed hut the individual's residence is in this Territory.

Notwithstanding any other provisions of this section, the term employment shall also include all service performed after June 30, 1946 by an officer or member of the crew of an American vessel on or in connection with such vessel, **provided** that the operating office, from which the operations of such vessel operating on navigable waters within or within and without the United States is ordinarily and regularly supervised, managed, directed and controlled, is within this Territory. [s. 2 (k) (2); L. 1939, c. 219; am. L. 1941, c. 304, s. 1, pt. of subs. 8; R. L. 1945, s. 4204; am. L. 1947, c. 75, pt. of s. 1.]

Sec. 4208. Excluded service. The term "employment" shall not include the following service:

(A) agricultural labor as defined in section 4210 of this subtitle;

(B) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(C) casual labor not in the course of the employing unit's trade or business;

(D) (i) service performed on or in connection with a vessel not an American vessel, if the individual performing such service is employed on and in connection with such vessel when outside the United States;

(ii) service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (I) service performed in connection with the catching or taking of salmon or halibut for commercial purposes, and (II) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(E) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(F) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; **provided** that if this Territory shall not be certified for any year by the social security board under section 1603 (c) of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the board from the fund in the same manner and within the same period as is provided in section 4267 of this chapter with respect to contributions erroneously collected;

(G) service performed in the employ of this Territory or of any other state, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this Territory or by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more states or political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the Constitution of the United States from the tax imposed by section 1600 of the Federal Internal Revenue Code;

(H) service with respect to which unemployment compensation is payable under an unemployment system established by an Act of Congress;

(I) [deleted 1945, Act 19, p. 118.]

(J) (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Federal Internal Revenue Code, if (I) the remuneration for such service does not exceed forty-five dollars, or (II) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or (III) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (IV) such service is performed by members of religious orders or ministers of the gospel;

(ii) service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Federal Internal Revenue Code;

(iii) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (I) no part of its net earnings inures (other than through such payments) to the

benefit of any private shareholder or individual, and (II) eighty-five per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(iv) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (I) admission to membership in such association is limited to individuals who are officers or employees of the United States government, and (II) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(v) service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed forty-five dollars (exclusive of room, board, and tuition);

(K) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a non-diplomatic representative);

(L) service performed in the employ of an instrumentality wholly owned by a foreign government—

(i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(ii) if the United States Secretary of State has certified or shall certify to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(M) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(N) service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(O) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(P) service covered by an arrangement between the board and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual

for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within such agency's state; or

(Q) any service which, pursuant to an Act of Congress enacted subsequent to April 1, 1941, is not included as "employment" for the purposes of the tax levied by the Federal Unemployment Tax Act, so long as and whenever such service is not so included.

Provided that none of the exclusions (A) to (P), inclusive, set forth in this section, shall apply to any service or labor which is included as "employment" for the purposes of the tax levied by the Federal Unemployment Tax Act, so long as and whenever such service or labor is so included. [s. 2 (k) (6); L. 1939, c. 219; am. L. 1941, c. 304, s. 1, pt. of subs. 8; R. L. 1945, s. 4208; am. L. 1945, c. 19, s. 1; am. L. 1947, c. 75, s. 1.]

Note: §§ **4215, 4219** were amended L. 1945, c. 19 (A-69); § **4226** was amended L. 1945, c. 179 (A-70).

Series A-64: ACT 3

An Act to Amend Section 4246 of Chapter 74 of the Revised Laws of Hawaii 1945, Relating to Unemployment Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4246** of chapter 74 of the Revised Laws of Hawaii 1945 is hereby amended by amending the last sentence in paragraph (1) to read:

"The term 'wages' wherever used in this and the next two subtitles (whether relating to the direct measure of contributions payable or relating to the wages to be included in computing any annual payroll or average annual payroll under the next subtitle or relating to any other matters in connection with which the term 'wages' is used in this and the next two subtitles) does not include the portion of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer with respect to employment during any calendar year, is paid after December 31, 1939 and prior to January 1, 1947 to such individual by such employer with respect to employment during such calendar year; or that portion of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year."

Section 2. This Act shall take effect upon its approval.

(Approved March 29, 1947.) **S.B. 23, Act 3.**

Note: As so amended, § 4246 reads:

Sec. 4246. Payment; wages not included. (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the commissioner for the fund in accordance with such regulations as the board may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. The term "wages" wherever used in this and the next two subtitles (whether relating to the direct measure of contributions payable or relating to the wages to be included in computing any annual payroll or average annual payroll under the next subtitle or relating to any other matters in connection with which the term "wages" is used in this and the next two subtitles) does not include the portion of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual hy an employer with respect to employment during any calendar year, is paid after December 31, 1939 and prior to January 1, 1947 to such individual by such employer with respect to employment during such calendar year; or that portion of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. [s. 7 (a); L. 1939, c. 219; am L. 1941, c. 304, s. 1, subs. 19; R. L. 1945, s. 4246; am. L. 1947, c. 3, s. 1.]

(Quarterly payment, s. 4257 (1) Penalty for delinquency, s. 4259. Re this subtitle, see L. 1941, c. 304, ss. 3 (c)—(e), 3 (g), transition provisions, refunds not to be made on account of 1941 amendments.)

Note: §§ **4252-53** were amended L. 1945, c. 19 (A-69).

Chapter 75. WAGE AND HOUR LAW: §§ **4352-53** were amended L. 1945, c. 15 (A-71) and § **4363** was amended L. 1945, c. 15 (A-71).

Chapter 76. WAGES, PAYMENT OF: § **4385** was amended L. 1945, c. 11 (A-72).

[CHAPTER 76A. WORKMEN'S COMPENSATION BUREAU, DIVISION OF INDUSTRIAL SAFETY.]

Series A-65: ACT 64

An Act Creating Within the Bureau of Workmen's Compensation of the Department of Labor and Industrial Relations a Division of Industrial Safety and Prescribing the Powers and Duties of Such Division: Providing for the Promotion of Health and Safety in Industry and Places of Employment; and Prescribing Penalties for Certain Violations.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 4390.01.**] Section 1. **Definitions.** When used in this Act:

"Commission" means the commission of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Division" means the division of industrial safety.

"Employer" includes every person having control or custody of any employment, place of employment, or employee, but shall not include the United States.

"Industrial safety engineer" shall be a person who is a graduate engineer of a college or university of recognized standing and who has special training in the branch of safety engineering, or a person who shall have had at least five years experience as a practicing safety engineer, two years of which shall have been spent in acting in an administrative capacity.

Nothing in this Act shall be construed to apply to employment in domestic service in or about a private home. [L. 1947, c. 64, s. 1.]

[**Sec. 4390.02.**] Section 2. **Division of industrial safety; industrial safety engineer.** There is hereby created within the bureau of workmen's compensation of the department of labor and industrial relations a division of industrial safety, to be in immediate charge of an industrial safety engineer, who shall be appointed by the director subject to the civil service law relating to territorial employees. [L. 1947, c. 64, s. 2.]

[**Sec. 4390.03.**] Section 3. **Powers and duties of division.** The division of industrial safety shall have the following powers and duties:

(a) It shall inspect places of employment and machines, devices, apparatus and equipment for the purpose of insuring adequate protection to the life and safety of workers.

(b) It shall enforce all rules and regulations made by the commission for the protection of life, health and safety of employees.

(c) It may investigate the cause of all industrial injuries resulting in disability or death which occur in any employment or place of employment, and may make reasonable orders and recommendations with respect to the cause of such injuries.

(d) It may disseminate through exhibitions, moving pictures, lectures, pamphlets and any other method of publicity, information to employers, employees and the general public regarding the causes and prevention of industrial accidents and occupational diseases and related subjects.

(e) Authorized representatives of the division shall have the right to enter any place of employment during regular working hours and at other reasonable times. [L. 1947, c. 64, s. 3.]

[Sec. 4390.04.] Section 4. **Safe place of employment; safety devices and safeguards.** Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe.

No person shall remove, displace, damage, destroy or interfere with the use of any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

No employer, owner or lessee of any real property shall construct or cause to be constructed any place of employment that is not safe, and no employer shall occupy or maintain any unsafe place of employment. [L. 1947, c. 64, s. 4.]

[Sec. 4390.05.] Section 5. **Safety orders.** Whenever an investigation by the division discloses that any employment or place of employment is not safe, or that any practice, means, method, operation or process employed or used in connection therewith is unsafe or does not afford adequate protection to the life and safety of employees in the employment or place of employment, the director may make an order directing that in the manner and within a time specified such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished, provided and used as are reasonably required to render the employment or place of employment safe.

The director may, upon application of the employer or any other person affected thereby, grant such extension of time as he finds reasonably necessary for compliance with any order. [L. 1947, c. 64, s. 5.]

[Sec. 4390.06.] Section 6. **Prohibition of use.** Whenever in the opinion of an authorized representative of the division the use of any machine, device, apparatus or equipment or any part thereof constitutes an imminent hazard to the life or safety of any person, a notice prohibiting the use thereof shall be at-

tached thereto and a copy delivered to the employer or his agent. The notice shall direct the employer to show cause before the director at a time and place specified therein and not more than five days thereafter why the prohibition should not continue until the use of such machine, device, apparatus or equipment is made safe. Such notice may be disregarded if the division is notified within the time specified that the use of said machine, device, apparatus or equipment has been made safe. After hearing, the director may set aside the prohibition or continue it upon such terms and conditions as he may deem necessary. [L. 1947, c. 64, s. 6.]

[**Sec. 4390.07.**] Section 7. **Judicial review.** An order of the director under sections 5 and 6 shall be final and conclusive against the employer unless the employer, within twenty days after a copy of such order is sent to him, files a petition for review thereof with the circuit judge of the circuit in which he resides or has his principal place of business. The filing of a petition for review shall not of itself stay or suspend the operation of such order, but a stay may be granted by the court upon terms and conditions which it by order directs. The hearing on review shall be de novo and the director shall be deemed a party to any such proceeding. [L. 1947, c. 64, s. 7.]

[**Sec. 4390.08.**] Section 8. **Injunction.** Whenever the condition of any employment or place of employment or the operation of any machine, device, apparatus or equipment constitutes a serious menace to the life or safety of any person, the director may apply to the circuit judge of the circuit in which such place of employment, machine, device, apparatus or equipment is situated for an injunction restraining the use or operation thereof until such condition is remedied. The application accompanied by an affidavit showing that such place of employment, machine, device, apparatus or equipment is being operated in violation of an order of the director or rule or regulation of the commission, attaching a copy of such order, rule or regulation, and showing that such use or operation constitutes a menace to the life or safety of any person shall warrant in the discretion of the court the immediate granting of a temporary restraining order. No bond shall be required from the director as a prerequisite to the granting of any restraining order or injunction. [L. 1947, c. 64, s. 8.]

[**Sec. 4390.09.**] Section 9. **Penalties.** Any person who shall violate or shall fail to comply with any notice or order made under or by virtue of this Act or under or by virtue of any rule or regulation of the commission, or who shall deface, destroy or remove without the authority of the division any notice or warning required by this Act or any rule or regulation of the commission, shall be guilty of a misdemeanor and punishable

for each such offense by a fine of not more than one thousand dollars, or by imprisonment of not more than one year, or by both fine and imprisonment. Each day a violation continues shall constitute a separate offense. [L. 1947, c. 64, s. 9.]

Section 10. This Act shall take effect July 1, 1947.

(Approved May 8, 1947.) **H.B. 33, Act 64.**

Chapter 77. WORKMEN'S COMPENSATION LAW.

Note: §§ **4401, 4403** were amended L. 1945, c. 10 (A-73).

Series A-66: ACT 81

An Act to Amend Chapter 77, Revised Laws of Hawaii 1945, as Amended by Act 10 (Series A-73) of the Session Laws of Hawaii 1945, Relating to Workmen's Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 77, Revised Laws of Hawaii 1945, as amended by Act 10 (Series A-73) of the Session Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By substituting for the words "paragraph 3 of section 4417, and said sums shall be expended only for the purposes and in the manner stated in paragraph 5 of section 4417," in the last three lines of paragraph 6 of **section 4411,** the words "section 4417.01".

Note: §§ **4416-17,** were amended L. 1945, c. 10 (A-73).

(2) By transposing both paragraphs of subsection 3 of **section 4417** from said section to a new section to be numbered 4417.01 and amending the same to read:

"**Sec. 4417.01. Special compensation and accident prevention fund.** There is hereby created a fund to be known as the special compensation and accident prevention fund, which shall consist of payments made to it as in this chapter provided. The treasurer of the Territory shall be custodian of the said fund, and all disbursements therefrom shall be paid by him upon orders signed by the director.

Every employer shall pay into the said fund, pursuant to an order to be made by the director, for every case of an injury causing death in which there are no dependents entitled to compensation, the sum of five hundred dollars; **provided** that, whenever such sum is paid into the said fund and it subsequently develops that compensation is payable to dependents or, if on appeal, the circuit court having jurisdiction over the cause shall enter judgment either by way of compromise or after trial in favor of any claimed dependent

or dependents, the director or said circuit court shall order the refund of such sum, and the treasurer of the Territory as custodian of said fund shall immediately refund the same upon receipt by him of a certified copy of said order; **provided,** further, that in cases where the employer has not paid the aforesaid five hundred dollars into said fund and where any party has appealed from the decision, ruling or order of the director and where the circuit court having jurisdiction over the cause enters judgment either by way of compromise or after trial in favor of any claimed dependent or dependents, there shall be no liability on the part of said employer to pay said sum into said fund." [L. 1947, c. 81, pt. of s. 1.]

(3) By transposing subsection 5 of **section 4417** from said section to a new section to be numbered 4417.02 and amending the same to read:

"Sec. 4417.02. **Subsequent injuries which increase disability.** If an employee who has previously incurred a permanent partial disability through the loss of one hand at or above the wrist, or one foot at or above the ankle, receives a personal injury by accident arising out of and in the course of his employment which results in the loss of a foot at or above the ankle, or a hand at or above the wrist, or, having lost the sight in one eye, receives injury which results in the total and permanent loss of the sight in the other eye, the employer shall be liable only for the permanent partial disability caused by the subsequent injury; **provided,** however, that in addition to such compensation for permanent partial disability and after the cessation of payments for the period of weeks prescribed by paragraph 1 of section 4417 the disabled employee shall be paid by the director out of the special compensation and accident prevention fund the remainder of the compensation that would then be due or thereafter become due the injured employee for permanent total disability if the subsequent injury itself had been the cause of his permanent total disability, such payments to be made by the director weekly by orders drawn on the treasurer of the Territory to be charged against the special compensation and accident prevention fund." [L. 1947, c. 81, pt. of s. 1.]

(4) By adding a new section to be numbered 4417.03 to read:

"Sec. 4417.03. **Purchase of accident prevention equipment.** Whenever in the opinion of the director it is necessary to purchase or rent informational material on accident prevention or equipment or mechanical devices for use of the bureau in determining safe working conditions, such purchases or rentals may be made from the special compen-

sation and accident prevention fund on approval of the director; **provided,** however, that such expenditures shall not exceed two thousand five hundred dollars in any calendar year." [L. 1947, c. 81, pt. of s. 1.]

Section 2. This Act shall take effect on July 1, 1947.

(Approved May 13, 1947.) **H.B. 246, Act 81.**

Note: As so amended, §§ 4411 and 4417 read:

Sec. 4411. Death benefits. If death results from the injury within one year, the employer or the insurance carrier shall pay to the persons entitled to compensation or, if there be none, then to the personal representative of the deceased employee, burial expenses not to exceed two hundred dollars; and shall also pay to or for the following persons a weekly compensation equal to the percentages of the deceased employee's average weekly wages as defined in section 4419:

1. To the dependent widow or widower, if there be no dependent children, forty per centum.

2. To the dependent widow or widower, if there be one or two dependent children, fifty per centum, or if there be three or more dependent children, sixty-six and two thirds per centum. The compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children, and the director may from time to time apportion the compensation between them in such way as he deems best.

3. If there be no dependent widow or widower, but a dependent child or children, then to the child or children thirty per centum, with ten per centum additional for each child in excess of two, with a maximum of sixty-six and two-thirds per centum, to be divided equally among the children if more than one.

4. If there be neither dependent widow, widower, nor child, but there be a dependent father or mother, then to the parent, if wholly dependent forty per centum, or if partially dependent twenty-five per centum, or if both parents be dependent then one-half of the foregoing compensation to each of them; or, if there be no parents, but a dependent grandparent, then to each grandparent the same compensation as to a parent.

5. If there be neither dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to the dependents twenty-five per centum for one dependent and five per centum additional for each additional dependent, with a maximum of forty per centum, to be divided equally among the dependents if more than one.

6. If there be no dependents who are entitled to compensation under this chapter, the employer or the insurance carrier shall pay the sum of five hundred dollars, pursuant to an order to be made by the director, for deposit into a special fund, in accordance with the provisions of section 4417.01. [L. 1915, c. 221, s. 7; R. L. 1925, s. 3610; R. L. 1935, s. 7486; am. L. 1937, c. 66, s. 1; am. L. 1939, c. 206, s. 8 and c. 237, pt. of s. 3; am. L. 1941, c. 253, s. 1; am. L. 1943, c. 157, pt. of s. 1; R. L. 1945, s. 4411; am. L. 1947, c. 81, s. 1.]

Sec. 4417. 1. **Permanent partial disability.** Where the injury causes a disability partial in character but permanent in duration, the employer shall pay the injured employee, regardless of his immediate subsequent ability for work, a weekly compensation equal to sixty-six and two-thirds per centum of his average weekly wages but not more than twenty-five dollars nor less than eight dollars a week (**provided,** in case of an employee whose average weekly wages are less than eight dollars a week, the weekly compensation shall be the full amount of the average weekly wages) for the period named in the schedule as follows:

Thumb. For the loss of a thumb, fifty-one weeks;

First finger. For the loss of a first finger, commonly called index finger, twenty-eight weeks;

Second finger. For the loss of a second finger, eighteen weeks;

Third finger. For the loss of a third finger, seventeen weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, seven weeks;

Phalanx of thumb or finger. The loss of the first phalanx of the thumb or finger shall be considered to be equal to the loss of one-half of the thumb or finger, and compensation shall be one-half of the amount above specified for loss of the thumb or finger. The loss of more than one phalanx of the thumb or of any finger shall be considered as the loss of the entire thumb or finger; **provided,** however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

Great toe. For the loss of a great toe, twenty-six weeks;

Other toes. For the loss of one of the toes other than the great toe, eight weeks;

Phalanx of toe. The loss of the first phalanx of any toe shall be considered to be equal to the loss of one-half of the toe; and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of a hand, two hundred and twelve weeks;

Arm. For the loss of an arm, two hundred and eighty weeks;

Foot. For the loss of a foot, one hundred and seventy-three weeks;

Leg. For the loss of a leg, two hundred and forty-eight weeks;

Eye. For the loss of an eye, one hundred and forty weeks;

Ear. For the permanent and complete loss of hearing in both ears, two hundred weeks. For the permanent and complete loss of hearing in one ear, fifty-two weeks. For the loss of both ears, eighty weeks. For the loss of one ear, forty weeks.

Loss of use. Permanent loss of the use of hand, arm, foot, leg, eye, thumb, finger, toe or phalanx shall be considered as equivalent to and draw the same compensation as the loss of a hand, arm, foot, leg, eye, thumb, finger, toe or phalanx.

Less than total loss. In cases of permanent partial disability, due to injury to a member named in this schedule, resulting in less than total

loss of the member or in less than total loss of use thereof, and where the disability is not otherwise compensated in this schedule, compensation shall be paid at the rate prescribed in this schedule for the total loss of or the total loss of use of the member, and for a period to be determined as follows: The percentage of permanent partial disability to total disability for the same member in the schedule shall be determined and the compensation hereinabove prescribed shall be paid for such portion of the period hereinabove prescribed for total loss or total loss of use of the member, as such percentage of disability bears to total disability of the member.

More than one finger or toe. In cases of permanent partial disability due to the same accidental injury to the thumb and one or more fingers; or to two or more fingers of one hand; or to the great toe and one or more toes other than the great toe; or to two or more toes other than the great toe of the foot; the percentage of permanent partial disability to total disability for the hand or foot, as the case may be, shall be determined, and the compensation hereinbefore prescribed shall be paid for such portion of the period hereinbefore prescribed for total loss or total loss of use of the hand or foot, as such percentage of disability bears to total disability of the hand or foot.

Amputation. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

Scope and time of payment. The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in sections 4415 and 4416; **provided,** however, that payments of compensation under this section shall not commence until after the period of total or partial disability shall have terminated.

Facial or head disfigurement. In case of an injury resulting in serious facial or head disfigurement the director may, in his discretion, make such award or compensation as he may deem proper and equitable, in view of the nature of the disfigurement, but not to exceed thirty-five hundred dollars.

Other cases. In all other cases in this class of disability the compensation shall be sixty-six and two thirds per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise, payable during the continuance of partial disability, but subject to reconsideration of the degree of the impairment by the director on his own motion or upon application of any party in interest.

Maximum compensation. The total compensation under this section and the total compensation under section 4416, taken together, shall not exceed in the aggregate the sum of seventy-five hundred dollars, but any additional compensation awarded under section 4416 for services of an attendant shall not be included in computing said sum.

2. **Temporary partial disability.** Where the injury causes partial disability for work, the employer, during the disability and, except as hereinafter in this paragraph provided, for a period of two hundred and sixty weeks beginning with the first day of disability, shall pay the injured workman a weekly compensation equal to sixty-six and two-thirds per centum of the difference between his average weekly wages before the accident and the weekly wages he will most probably be able to earn thereafter, but not more than twenty-five dollars a week. In no case shall the weekly payments continue after the disability ends; and in case the partial disability begins after a period of total disability, the period of total disability shall be deducted from the total period of two hundred and sixty weeks; nor shall the amount of compensation paid in any case exceed in the aggregate the sum of seventy-five hundred dollars. But no adjudication of disability shall be made until after two weeks from the date of injury.

3. **Artificial members or aids.** In addition to the compensation hereinabove scheduled where an injury results in the amputation of an arm, hand, leg or foot, or the enuncleation of an eye, or the loss of any natural or artificial teeth, or the loss of vision which may be partially or wholly corrected by the use of lenses, the employer shall furnish, but not more than once for each injury aforesaid, an artificial of any such member lost, and in the case of correctable loss of vision, one set of suitable glasses; the pecuniary liability of the employer for such artificial limbs or supplies as may be required by this paragraph shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when the treatment is paid for by the injured person. [L. 1915, c. 221, s. 14; am. L. 1917, c. 227, s. 5; am. L. 1923, c. 249, s. 4; R. L. 1925, s. 3617; am. L. 1933, c. 37, s. 1; R. L. 1935, s. 7493; am. L. 1937, c. 66, s. 2; am. L. 1939, c. 206, s. 2 and c. 147, s. 1 and c. 237, pt. of s. 3; L. 1943, c. 157, pt. of s. 1; R. L. 1945, c. 4417; am. L. 1945, c. 10, pt. of s. 1; am. L. 1947, c. 81, s. 1.]

Note: For further amendments to §§ 4435 to 4441, 4446-4449, see L. 1945, c. 10 (A-73).

Series A-67: ACT 169

An Act to Amend Section 4464 of the Revised Laws of Hawaii 1945, to Repeal Section 4467 of the Revised Laws of Hawaii 1945 and to Provide Compensation Benefits for Members of the Hawaii National Guard.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4464 of the Revised Laws of Hawaii 1945 is hereby amended to read:

"**Sec. 4464. Who entitled to compensation.** If an officer or enlisted person in the Hawaii National Guard shall suffer injury or death arising out of and in the perform-

ance of his duty in the Hawaii National Guard, compensation shall be paid and medical services and supplies shall be furnished to him or his dependents, as the case may be, by the Territory for such injury or death in the manner and in the amounts provided for in this chapter for workmen's compensation." [L. 1943, c. 131, s. 1; R. L. 1945, s. 4464; am. L. 1947, c. 169, s. 1.]

Section 2. **Section 4467** of the Revised Laws of Hawaii 1945, as amended by Act 160 of the Session Laws of Hawaii 1945, is hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 944, Act 169.**

Title 10: PUBLIC LANDS.

Chapter 78. MANAGEMENT AND DISPOSITION OF.

Series A-68: ACT 107

An Act Relating to Public Lands, the Proceeds Therefrom, and the Disposition of Such Proceeds, Including the Improvement and Development of Public Lands, the Clearing of Encumbrances Thereon, and the Acquisition of Private Property for Public Use; Making an Appropriation From the General Fund to Establish a Revolving Fund for the Improvement and Development of Public Lands; Amending Sections 4520, 4521 and 4527 of Chapter 78 of the Revised Laws of Hawaii 1945, Adding Thereto Two New Sections, and Repealing Sections 4525 and 4526 Thereof; and Amending Section 5923 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4520 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 4520. Special funds.** All proceeds of sale of public lands, for homestead or other purposes, in any county, including interest on deferred payments and rents under right of purchase leases, shall be set apart as a special fund for said county, and shall be used and disposed of as follows, and in the following order of priority.

1. To reimburse the revolving fund created by section 4524.02 for expenditures therefrom for the improvement or development of lands in said county.

2. To reimburse the general fund of the Territory for advancements heretofore or hereafter made therefrom, which are required to be reimbursed from the proceeds of sales of lands in said county.

3. To be appropriated by the commissioner, with the approval of the governor, for the improvement and development of public lands in said county, as provided in section 4524.03.

4. To be appropriated by the commissioner, with the approval of the governor, for the acquisition of private property in said county for public use, or the clearing of encumbrances on public lands, as provided in section 4521.

5. To be transferred to the general fund of the Territory, in such amounts and at such times as the commissioner, with the approval of the governor, may determine, or as the governor may direct." [L. 1895, c. 26, s. 18; R. L. 1945, s. 4520; am. L. 1947, c. 107, s. 1.]

Section 2. Section 4521 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 4521. Acquisition of private property; appraisal.** When (a) private property in any county is required for a public use and no special provision is made for the acquisition thereof, or (b) there are encumbrances on public lands needed for public purposes or for houselots, in the form of leases, licenses, or otherwise, which encumbrances can only be satisfied or the release thereof procured through the payment of public money and no special provision is made for funds therefor, the commissioner, with the approval of the governor, may designate from the special land fund of said county such sum of money as is required for such purposes, as provided in section 4520, and the same shall thereupon be deemed to be and is appropriated for such purposes. Any unexpended part of such appropriation may at any time or times be designated by the commissioner as no longer required for such purposes, and thereupon the appropriation shall lapse as to such part, which shall then be available for other purposes of said special land fund or for transfer to the general fund, as provided in section 4520.

No public land shall be sold for other than homestead purposes, for a sum less than the value fixed by three disinterested persons acting as appraisers, nor shall any property be purchased for a sum greater than the value fixed by three disinterested appraisers, such appraisers to be appointed by the governor." [L. 1909, c. 55, s. 1; am. L. 1911, c. 129, s. 1; R. L. 1945, s. 4521; am. L. 1947, c. 107, s. 2.]

Note: § **4524.01** was added L. 1945, c. 96 (A-76), re rights of way to sea.

Section 3. There is hereby added to chapter 78 of the Revised Laws of Hawaii 1945 a new section to be numbered 4524.02, to read as follows:

"Sec. 4524.02. **Revolving fund.** There is hereby created in the treasury of the Territory a special fund, to be designated as the 'land development revolving fund'. Expenditures from said fund may be made on vouchers approved by the commissioner for the purpose of opening public lands for homesteading or for sale, including surveys, construction of roads, construction of water lines to supply said lands with water, construction of sewer lines, and such other improvements as may be necessary for the development of such lands for homesteading or for sale; **provided,** however, that the plans and specifications for these projects shall meet with the approval of the board of supervisors of the county in which the tracts are located, as well as the commissioner of public lands.

Disbursements from said fund shall be reimbursed from the special land fund of the county in which the land so improved or developed is situated, as provided in section 4520, and moneys so reimbursed shall be available for expenditure for the purposes and in the manner above provided." [L. 1947, *c.* 107, s. 3.]

Section 4. There is hereby added to chapter 78 of the Revised Laws of Hawaii 1945 a new section to be numbered 4524.03, to read as follows:

"Sec. 4524.03. **Land improvement.** The commissioner, with the approval of the governor, may designate from the special land fund of a county such sum of money as is required for the opening of public lands in said county for homesteading or for sale, as provided in section 4520, and the same shall thereupon be deemed to be and is appropriated for such purpose, including surveys, construction of roads, construction of water lines to supply said lands with water, construction of sewer lines, and such other improvements as may be necessary for the development of such lands for homesteading or for sale; **provided,** however, that the plans and specifications for these projects shall meet with the approval of the board of supervisors of the county in which the tracts are located, as well as the commissioner of public lands.

Such appropriation may be expended by and under the authority of the commissioner or may be ordered by him to be transferred to the county in which the land is situated to be expended by and under the authority of the board

of supervisors of such county. The commissioner, or the board of supervisors, as the case may be, may at any time or times designate any unexpended part of the moneys so appropriated as are no longer required for such purposes, and thereupon the appropriation shall lapse as to such part, which shall then be available for other purposes of said special land fund or for transfer to the general fund, as provided in section 4520." [L. 1947, c. 107, s. 4.]

Section 5. **Sections 4525** and **4526** of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 6. Section 4527 of the Revised Laws of Hawaii 1945, as amended by Act 123 of the Session Laws of Hawaii 1945, is hereby further amended to read as follows:

"**Sec. 4527. Road and pipe line construction by counties, etc.; reimbursement therefor, restrictions.** The commissioner, with the approval of the governor, may from time to time enter into agreements or contracts with the several counties for the construction by the latter of any road or roads to, in, or through tracts of land opened for homestead, residence or business purposes, water lines to supply said lands with water, and sewer lines, or any of the improvements authorized by sections 4524.02 and 4524.03, based on plans and specifications prepared by the counties and approved by the commissioner.

Such agreements or contracts may cover the construction of any such roads, water lines, sewer lines, or other improvements, as may be built out of county moneys, or out of any territorial moneys available under any legislative appropriation, even though such appropriation Acts do not specifically provide that such agreements or contracts may be made with the various counties, or out of any moneys available under sections 4524.02 and 4524.03, or partly out of county moneys and partly out of territorial moneys for any such road or roads, water lines, sewer lines, or other improvements, or part or parts thereof, authorized under any such legislative appropriation or under sections 4524.02 and 4524.03.

The county, upon receipt of such agreement or contract, shall call for tenders for the construction of such road or roads, water lines, sewer lines, or other improvements, as provided in section 351, and may as in said section provided, elect to construct the road or roads, water lines, sewer lines, or other improvements at cost, or may sublet and contract

with other parties, for the construction, in which case the commissioner shall be furnished with two certified copies of the sub-contract.

The county, unless it has agreed to make such improvements out of county moneys, shall be reimbursed by the Territory for so much of its moneys as may be expended under any such agreement entered into as herein provided, out of the available appropriation or fund designated in the agreement or contract, the reimbursements to be on vouchers approved by the commissioner.

Roads and sewer lines constructed as herein provided shall be maintained by the county in which they are located, and water lines, if connected with a government owned waterworks, shall be maintained by said waterworks or the county, as may be appropriate." [L. 1913, c. 66, s. 1; am. L. 1925, c. 278, ss. 1, 2; R. L. 1945, s. 4527, am. L. 1945, c. 123, s. 2; am. L. 1947, c. 107, s. 6.]

Note: § 4565 and 4601, see request to Congress to approve amendments of, J. R. 7, post. § 4565.01, see J. R. 25, post.

Section 7. Section 5923 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the third paragraph thereof.

Section 8. The moneys in the revolving fund created by the governor's executive order of July 16, 1946, are hereby transferred to and shall be paid into the revolving fund created by section 3 of this Act. Expenditures made from the revolving fund created by said executive order shall be reimbursed by payments into the revolving fund created by section 3 of this Act, in the manner set forth in paragraph 1 of section 4520 of the Revised Laws of Hawaii 1945, as amended by this Act, the same as if such expenditures had been made from the revolving fund created by this Act. There further is appropriated hereby from the general revenues of the Territory, not otherwise appropriated, the sum of $500,000, to be deposited in said special fund, created by section 3.

Section 9. This Act shall take effect upon its approval.

(Approved May 14, 1947.) S.B. 300, Act 107.

Note: See J. R. 11, post, re Camp Banyan as a school and recreational area, county of Hawaii.

Title 11: PUBLIC UTILITIES.

Chapter 82. COMMISSION.

Series A-69: ACT 112

An Act Relating to Public Utility Rates and Amending Section 4715 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4715** of the Revised Laws of Hawaii 1945, is hereby amended in the following particulars:

(a) By amending the title thereof to read as follows:

"Regulate rates, etc., hearings, notice of hearings, appeals."

(b) By inserting at the end of the first full sentence thereof the following:

"The commission shall not approve any increase in rates without conducting a hearing or hearings thereon on the island on which the utility is situated. No rates shall be increased nor shall any hearings be held unless notice of the hearing, with the purpose thereof and the date, time and place at which it will open, shall have been advertised not less than once in each of three successive weeks in a newspaper published in and of general circulation in the Territory, the first publication to have been not less than twenty-one days prior to such hearing."

(c) By amending the second full sentence by striking, from the second line thereof, the words "upon its own motion or upon complaint."

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 113, Act 112.**

Note: As so amended, § 4715 reads:

Sec. 4715. Regulate rates, etc., hearings, notice of hearings, appeals. All rates, fares, charges, classifications, rules and practices made, charged or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be fixed by order of the commission, and no such rate, fare, charge, classification, rule or practice shall be abandoned, changed, modified or departed from without the prior approval of the commission. The commission shall not approve any increase in rates without conducting a hearing or hearings thereon on the island on which the utility is situated. No rates shall be increased nor shall any hearings be held unless notice of the hearing, with the purpose thereof and the date, time and place at which it will open, shall have been advertised not less

than once in each of three successive weeks in a newspaper published in and of general circulation in the Territory, the first publication to have been not less than twenty-one days prior to such hearing. The commission shall have power, after a hearing, by order to regulate, fix and change all such rates, fares, charges, classifications, rules and practices, so that the same shall be just and reasonable, and to prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, to regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, to prescribe its form and method of keeping accounts, books and records, and its accounting system, to regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and to do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes. From every order made by the commission under the provisions of this chapter an appeal shall lie to the supreme court in like manner as an appeal lies from an order or decision of a circuit judge at chambers. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, upon such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained in whole or in part. [L. 1913, c. 89, s. 14; R. L. 1925, s. 2202; am. L. 1925, c. 173, s. 1; am. L. 1933, c. 169, s. 2; R. L. 1935, s. 7954; R. L. 1945, s. 4715; am. L. 1947, c. 112, s. 1.]

Note: § 4719 was amended L. 1945, c. 189 (A-78).

Title 12: PUBLIC WELFARE.

Chapter 85. DEPARTMENT OF: SPECIAL FUNCTIONS.

Note: § 4827 was amended L. 1945, c. 157 (A-79) and c. 113 (A-81).

Series A-70: ACT 22

An Act to Amend Section 4828 of the Revised Laws of Hawaii 1945, as Amended by Act 161 (Series A-80) of the Session Laws of Hawaii 1945, Relating to the Department of Public Welfare.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4828** of the Revised Laws of Hawaii 1945, as amended by Act 161 (Series A-80) of the Session Laws of Hawaii 1945, is hereby further amended by amending the second sentence thereof to read as follows:

"The department is also authorized to bear the cost of the burial of indigent persons up to, but not exceeding the sum of one hundred dollars."

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1947.) **H.B. 238, Act 22.**

Note: As so amended, § 4828 reads:

Sec. 4828. Medical and dental care; hospitalization; burial of indigent dead. The department is authorized to furnish or pay the cost of medical care (which term, as used in this section, shall include, in addition to all other kinds of medical care, surgical care, maternity care and eye care, including optical appliances, as well as materials, supplies and other appliances used in the care, treatment and rehabilitation of patients), hospitalization, and dental care (including supplies, materials and appliances) to such needy persons, including the aged, blind, dependent children, and any others, who for any reason satisfactory to the department are unable to procure or provide sufficient medical care, hospitalization or dental care for themselves. The department is also authorized to bear the cost of the burial of indigent persons up to, but not exceeding the sum of one hundred dollars. Any moneys expended under this section shall be deemed to be in addition to and not in lieu of any moneys now or hereafter appropriated or made available by or under any other provision of law, federal or territorial, for any of the same or similar purposes. [L. 1943, c. 36, s. 1; R. L. 1945, s. 4828; am. L. 1945, c. 161, s. 1; am. L. 1947, c. 22, s. 1.]

Note: §§ **4850, 4853, 4857-62, 4871-77,** amended L. 1945, c. 113 (A-81); § **4871.01** added L. 1945, c. 125 (A-82).

Chapter 85.01. BUREAU OF SIGHT CONSERVATION, etc.

Series A-71: ACT 108

An Act Relating to the Powers and Duties of the Bureau of Sight Conservation and Work With the Blind and Blind and Visually Handicapped Persons and Persons Who Are Likely to Become Visually Handicapped or Blind and Amending Chapter 85.01 of the Revised Laws of Hawaii 1945 and Acts 113 and 125 of the Session Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 4872.01.**] Section 1. [**Blind, defined.**] The word "blind" as used in sections 4872, 4873, 4874, 4875, 4876, 4877, and 4879 of the Revised Laws of Hawaii 1945, as amended by Act 113 of the Session Laws of Hawaii 1945, and in Act 125 of the Session Laws of Hawaii 1945, whether so used as adjective or as noun, shall mean "blind or visually handicapped." [L. 1947, c. 108, s. 1.]

[**Sec. 4872.02.**] Section 2. [**Vocational rehabilitation, defined.**] The phrase "vocational rehabilitation" in Act 125 of the Session Laws of Hawai 1945 shall mean "vocational rehabilitation and guidance, counseling, physical restoration, training, maintenance during training, transportation to and from training and other transportation, prosthetic devices, placement for vocational training, and any other service or benefit for the vocational rehabilitation of blind or visually handicapped persons." [L. 1947, c. 108, s. 2.]

[**Sec. 4872.03.**] Section 3. [**Visually handicapped, defined.**] Any person who has a visual defect which for him, in reference to his native abilities, training, and education, constitutes an employment or work handicap shall be deemed visually handicapped within the meaning of this Act. [L. 1947, c. 108, s. 3.]

[**Sec. 4872.04.**] Section 4. [**Power of bureau.**] The bureau of sight conservation and work with the blind is hereby authorized to do, as the agency of the Territory for the assistance of blind or visually handicapped persons, all things which will enable the Territory and the blind and the visually handicapped in the Territory to have the benefits of all federal laws for the benefit of blind and visually handicapped persons. [L. 1947, c. 108, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 407, Act 108.**

Note: §§ **4877-79,** see **L. 1945, c. 113 (A-81);** §§ **4879.01-.02** see **L. 1945, c. 265 (83).**

Series A-72: ACT 109

An Act Relating to the Transportation of Blind Persons and Their Guides.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4879.03.] Section 1. **[One fare for blind person and guide permitted.]** It shall be lawful under the law of the Territory for any carrier, whether public or private, whether a public utility or not a public utility, to carry on any conveyance operated by such carrier any blind person and the guide of such blind person and to charge them together the fare of only one passenger. This section shall not be construed to affect the contractual rights of any person or to place any obligation or restriction on any carrier. [L. 1947, c. 109, s. 1.]

Section 2. All laws, rules, regulations, and ordinances and all parts of laws, rules, regulations, and ordinances inconsistent with this Act are, to the extent of the inconsistency, hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 405, Act 109.**

Series A-73: ACT 35

An Act Prohibiting the Use or Carriage of Certain Exposed Canes in Public Places, Except by Wholly or Partially Blind Persons, Requiring Precautions Against Accidents or Injuries to Such Persons, and Providing Penalties for Violations.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4880.01.] Section 1. **[Canes, use in public place.]** No person, unless wholly or partially blind, shall carry or use on any street or highway, or in any other public place, an exposed cane or walking stick which is painted white in color or painted white tipped with red. [L. 1947, c. 35, s. 1.]

[Sec. 4880.02.] Section 2. **[Driver of vehicle, caution.]** Any driver of a vehicle shall, on approaching a person who is wholly or partially blind and is carrying or using an exposed cane or walking stick which is painted white in color or painted white tipped with red, take such reasonable precautions before proceeding as may be necessary to avoid an accident or injury to the person wholly or partially blind. [L. 1947, c. 35, s. 2.]

[**Sec. 4880.03.**] Section 3. [**Penalty.**] Any person who shall violate any provision of section 1 or section 2 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars or imprisoned for not more than six months or both. [L. 1947, c. 35, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **H.B. 203, Act 35.**

Title 13: PUBLIC WORKS.

Chapter 86. DEPARTMENT OF.

Series A-74: ACT 180

An Act to Authorize the Superintendent of Public Works as Such, as Territorial Highway Engineer and as Chairman and Executive Officer of the Radio Board, to Delegate Certain Official Duties of a Routine Nature to Qualified Subordinates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4901** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"The superintendent of public works may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make routine reports and perform such other routine duties as the superintendent may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the superintendent, who shall be responsible therefor."

Section 2. **Section 4963** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"The territorial highway engineer may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make routine reports and perform such other routine duties as the engineer may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the engineer, who shall be responsible therefor."

Section 3. Section 5021 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"The superintendent, as ex-officio chairman and executive officer of the board, may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make written reports and perform such other routine duties as the superintendent may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the superintendent, who shall be responsible therefor."

Section 4. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 319, Act 180.**

Note: As so amended, §§ 4901, 4963 and 5021 read:

Sec. 4901. Superintendent of public works has charge. The superintendent of public works shall be, and is, charged with the superintendence and management of the internal improvements of the Territory.

The superintendent of public works may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make routine reports and perform such other routine duties as the superintendent may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the superintendent, who shall be responsible therefor. [C. C. 1859 s. 167; R. L. 1925, s. 798; R. L. 1935, s. 1700; R. L. 1945, s. 4901; am. L. 1947, c. 180, s. 1.]

Sec. 4963. Engineer's duties. The duties of the territorial highway engineer shall be:

1. To select, designate or lay out, in compliance with the requirements of the federal highway act, a system or systems of highways in the Territory, upon which federal aid funds may or are to be expended, together with territorial or county funds, or both.

2. To alter, modify or revise such system or systems or any portion or portions thereof, to such extent and in such manner as may be required by the administrator under the provisions of the federal highway act, **provided** such alteration, modification or revision be not forbidden by the laws of the Territory.

3. To prepare, or cause to be prepared, and to submit for approval to the administrator, conformably to the federal highway act, project statements setting forth proposed construction or reconstruction of any highway or portion thereof upon which federal aid funds are proposed or desired to be expended in connection with local funds; and upon approval of any of such project statements, conformably to the federal highway act, to prepare or cause to be prepared, and to submit for approval to the administrator, such surveys, plans, specifications and estimates for the project embraced by such statement, or any portion thereof, as such administrator may require.

4. Subject to the approval of the administrator, and conformably to the federal highway act, on behalf of the Territory, to undertake, and enter into contracts for, the construction of such federal aid projects, and the expenditure of federal aid funds, together with local funds, upon such projects, and to supervise the construction of such projects.

5. To undertake and perform any and all acts which shall be necessary or proper for the purpose of complying with the provisions of the federal highway act and securing the benefits of federal aid for highways which the Territory is eligible to receive under said Act.

The territorial highway engineer may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make routine reports and perform such other routine duties as the engineer may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the engineer, who shall be responsible therefor. [L. 1929, c. 53, pt. of s. 1; R. L. 1945, s. 4963; am. L. 1947, c. 180, s. 2.]

Sec. 5021. Creation of radio board; powers and duties. There is hereby created a radio board hereafter referred to as the "board", which shall be empowered to carry out the provisions and intent of this chapter.

The board shall consist of five members, one of whom shall be the superintendent of public works (hereinafter referred to as the "superintendent"), who shall ex officio be the chairman and executive officer of the board, and the remaining four of which shall be appointed, one from each county, by the governor as provided in section 80 of the Organic Act, for terms of four years, or the unexpired period thereof, in such manner that the term of one member shall expire each year.

The board shall have full power and authority to examine into all the sources and causes of radio interference as may be noted or reported by the employees of the board or by any other person, whether such interference is caused or originates by reason of the occupation, business or activity of any public utility, company, corporation or other person using electric power, current or energy for any purpose whatsoever.

The superintendent, as ex-officio chairman and executive officer of the board, may designate in writing a qualified subordinate who shall be authorized to sign vouchers, make written reports and perform such other routine duties as the superintendent may deem necessary to delegate; **provided,** however, that all acts of such subordinate shall be performed under the direction of the superintendent, who shall be responsible therefor. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7970; am. L. 1935, c. 201, s. 1; am. L. 1941, c. 333, pt. of s. 1; R. L. 1945, s. 5021; am. L. 1947, c. 180, s. 3.]

Series A-75: ACT 32

An Act Relating to Aeronautics; Creating an Aeronautics Commission for the Territory of Hawaii; Prescribing the Powers, Duties and Functions of Such Commission and Providing Revenues; Making Regulatory Provisions as to Airports, Air Navigation Facilities, and Aeronautics and Prescribing Penalties; Adding a New Chapter to the Revised Laws of Hawaii 1945; Repealing Sections 4930 and 4932 of the Revised Laws of Hawaii 1945, and Adding a New Section 4934 to Said Revised Laws; Amending Act 182 of the Session Laws of Hawaii 1945, Relating to Airport Zoning, and Other Laws, to Conform to This Act; and Amending Section 5260 of Said Revised Laws, as Amended, Relating to Territorial Airport Fund.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to the Revised Laws of Hawaii 1945 a new chapter to be appropriately numbered by the secretary of Hawaii, consisting of twenty-two sections to be appropriately renumbered, and to read as follows:

"CHAPTER 86A. HAWAII AERONAUTICS COMMISSION."

"DEFINITIONS; GENERAL PROVISIONS"

[**Sec. 4915.01.**] "Sec. 1. **Definitions.** As used in this chapter, unless the context otherwise requires:

(a) 'Aeronautics' means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(b) 'Aircraft' means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

(c) 'Airport' means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, including approaches, together with all airport buildings and facilities located thereon.

(d) 'Commission' means the Hawaii aeronautics commission.

(e) 'Director' means the director of aeronautics appointed pursuant to the provisions of section 3 (c) of this chapter.

(f) 'Air navigation facility' means any facility used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, light, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(g) 'Operation of aircraft' or 'operate aircraft' means the use, navigation or piloting of aircraft in the airspace over the Territory or upon any airport within the Territory.

(h) 'Airman' means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, airframes, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control-tower operator; but does not include any individual employed outside the United States, and its territories and possessions, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(i) 'Airport hazard' has the meaning defined by section 4935.01.

(j) 'Territorial airway' means a route in the navigable airspace over and above the lands or waters of the territory, designated by the commission as a route suitable for air navigation.

(k) 'Municipality' means any county or other political subdivision or public corporation of the Territory. 'Municipal' means pertaining to a municipality as herein defined.

(l) 'Person' means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.02.] Sec. 2. **Declaration of purposes.** It is hereby declared that the purpose of this chapter is to further the public interest and aeronautical progress:

by creating a territorial aviation commission, which shall be independent of other departments and agencies of the Territory, and placing under the jurisdiction and control of such commission all territorial airways, and all territorial airports and air navigation facilities except those under military jurisdiction and control;

by granting to such territorial commission such powers and imposing upon it such duties that the Territory may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, develop and assist in the development of a territorial system of airports, cooperate with and assist others engaged in aeronautics and encourage and develop aeronautics;

by providing for the protection and promotion of safety in aeronautics;

by cooperating in effecting uniformity of the laws and regulations relating to the development and regulation of aeronautics in the territories and the several states of the United States, consistent with federal aeronautics laws and regulations;

by establishing such regulations as are necessary in order that persons engaged in aeronautics of every character shall so engage consistently with the safety and the rights of others;

and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of the Territory; **provided,** however, that nothing in this Act shall be construed as authorizing or empowering the commission to exercise any power or perform any function in such cases where the Civil Aeronautics Board, the Civil Aeronautics Administration or other department or agency of the federal government has such authority or power, **provided** further, that the commission may foster and aid the development and progress of aeronautics in the Territory and shall have the power to represent the Territory in any hearing before any federal department or agency on any matter affecting aeronautics in the Territory. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.03.] Sec. 3. **Aeronautics commission.**

(a) **Creation, membership.** There is hereby created the 'Hawaii aeronautics commission' to consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate as provided in section 80 of the Organic Act, and who shall continue in office, as designated by the governor at the time of appointment, for terms expiring as follows: three on the last day of the calendar years 1949, 1951, and 1953, respectively, two on the last day of the calendar year 1950, and two on the last day of the calendar year 1952. The successors of the members initially appointed shall be appointed each for a term of five years, commencing with the expiration of the preceding term, in the same manner as the members originally appointed under this chapter, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Members of the commission shall be selected with due regard to their business ability, civic interest, familiarity with aviation, and interest in its future development. No commissioner shall have any pecuniary interest, direct or indirect, in the commercial operation of any aircraft within the Territory, or in any business or enterprise conducted at any territorial airport under a contract, lease or other arrangement with the commission. No more than four of the members shall be appointed from the same political party. All members of the commission shall have the qualifications prescribed by section 451. No member shall receive any salary for his services, but each shall be reimbursed for necessary expenses incurred by him in the performance of his duties, including traveling expenses.

(b) **Commission organization, meetings, reports.** The commission shall, within thirty days after its appointment, organize, and adopt a seal. At such organization meeting it shall elect from among its members a chairman, a vice-chairman, and a secretary, to serve for one year, and annually thereafter shall elect such officers; all to serve until their successors are appointed and qualified. The commission shall, by resolution, fix the time and place for its regular meetings. The commission may make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient, and may from time to time amend such rules and regulations. Four members

shall constitute a quorum, and no action shall be taken by less than a majority of the members present at any meeting. Special meetings may be called as provided by its rules and regulations. Regular meetings shall be held at the commission's established offices, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold meetings, hearings, or proceedings at any other place designated by it. The commission shall report in writing to the governor immediately following the end of each fiscal year. Said report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the commission during the preceding fiscal year, an estimate of anticipated revenues and expenses for the next succeeding fiscal year, such other information as it may deem necessary or useful and any additional information which may be requested by the governor. The fiscal year of the commission shall conform to the fiscal year of the territory.

(c) **Director of aeronautics, other employees.**

(1) Director—appointment, qualifications, compensation. A director of aeronautics may be appointed by the commission without regard to the provisions of chapters 2 and 3, or any other law relating to territorial civil service, to serve at the pleasure of the commission. The director shall be appointed with due regard to his fitness, through administrative ability, and knowledge of and experience in aeronautics, for the efficient dispatch of the powers and duties duly vested in and imposed upon him. He shall devote his entire time to the duties of his office and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest, direct or indirect, in any civil aeronautics enterprise or any enterprise conducted on any airport in the Territory. He shall receive such compensation as the commission may determine and shall be reimbursed for all traveling and other expenses incurred in the discharge of his official duties.

(2) Director—powers and duties. The director shall be the executive officer of the commission and under its supervision shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the Territory relative to aeronautics. He shall attend, but not vote at, all meetings of the commission. He shall be in charge of the offices of the commission and

responsible to the commission for the preparation of reports and the collection and dissemination of data and other public information relating to aeronautics.

(3) Director—delegation of powers to. The commission may, by written order filed in its office, delegate to the director any of the powers or duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the commission.

(4) Other employees—appointment. The director shall appoint, subject to the approval of the commission and pursuant to the provisions of chapters 2 and 3, such assistant directors, experts, field and office assistants, clerks, and other employees as may be required and authorized for the proper discharge of the functions of the commission, **provided,** that one first assistant director may be appointed without regard to the provisions of chapter 2; **provided,** further, that no such appointments shall be made unless the governor shall have approved the position to be filled. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.04.**] Sec. 4. **Development of aeronautics—general.** The commission shall have general supervision over aeronautics within the Territory. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in the Territory and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government and other persons in the development of aeronautics and shall seek to coordinate the aeronautical activities of the Territory with those of the federal government. Municipalities are authorized to cooperate with the commission in the development of aeronautics and aeronautics facilities in the Territory. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.05.**] Sec. 5. **Legislation, intervention.** The commission may:

(a) draft and recommend necessary legislation to advance the interests of the Territory in aeronautics;

(b) represent the Territory in aeronautical matters before federal agencies and other territorial agencies;

(c) participate as party plaintiff or defendant or as intervenor on behalf of the Territory or any municipality or citizen thereof in any controversy which involves the interest of the Territory in aeronautics. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.06.] Sec. 6. **Airports—general.**

(a) **Establishment, operation, maintenance.** The commission is authorized on behalf of and in the name of the Territory, out of appropriations and other moneys available or made available for such purposes, to plan, acquire, and establish, construct, enlarge, and improve in the manner herein provided, maintain, equip, operate, regulate, and protect, airports and air navigation facilities, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort, accommodation and convenience of air travelers, and including protection against airport hazards. For such purposes the commission may, by purchase, gift, devise, lease, condemnation in accordance with chapter 8, or otherwise, acquire property, real or personal, or any interest therein, including the property, rights, estates and interests mentioned in section 4935.13. The commission is authorized to acquire rights and interests in airports owned or controlled by others, for the purpose of meeting a civilian need which is within the scope of its functions, even though it does not have the exclusive control and operation of such airports. No officer, board or department of the Territory, or municipality, shall perform any function which is within the jurisdiction of the commission without its approval, except for military purposes.

(b) **Acquisition of real property.** In the acquisition of real property and interests therein it shall be the duty of the superintendent of public works to assist the commission, at its request, and to assign thereto territorial officers and employees under his supervision for the making of surveys, abstracts, and otherwise as may be of assistance, for which services the commission shall pay out of the appropriations available to it, unless the department of public works has a general fund appropriation for such services.

(c) **Structures and improvements.** All structures and improvements to land shall be initiated by the commission and shall be constructed or made by or under the superintendent of public works, in conformity with plans and specifications approved by the commission, for which purpose the commission shall make allotments of the funds under its control for expenditure by the superintendent of public works and for services of the department of public works for which said department has no general fund appropriation.

(d) **Use of territorial and municipal facilities and services.** In carrying out the provisions of this chapter the commission may use the facilities and services of other agencies of the Territory and of the municipalities of the Territory to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available their facilities and services. This subsection shall apply to the department of public works with respect to services and facilities in addition to those specified by subsections (b) and (c). [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.07.**] Sec. 7. **Funds.** (a) There is created in the treasury of the Territory, in addition to the special fund created by section 5260, a special fund to be designated as 'Airport Revenue Fund.'

(b) All tax collections paid into the territorial airport fund, created by section 5260, shall be expended by the commission for the construction, operation and maintenance of airports and air navigation facilities, including acquisition of real property and interests therein, and for the other purposes of this chapter.

(c) All moneys received by the commission from rents, fees and other charges, pursuant to this chapter, shall be paid into the airport revenue fund and shall be applied by the commission for the expenses of operation and maintenance of airports and air navigation facilities, including reserves therefor.

(d) All expenditures by the commission shall be made on vouchers duly approved by the chairman or such other officer as shall be designated by the commission. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.08.**] Sec. 8. **Operation and use privileges.**

(a) **Under commission operation.** In operating an airport or air navigation facility owned or controlled by the commission, or in which the commission has a right or interest, the commission may enter into contracts, leases and other arrangements with any persons—

(1) granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;

(2) conferring the privilege of supplying goods, commodities, things, services or facilities at such airport or air navigation facility; or

(3) making available services, facilities, goods, commodities, or other things to be furnished by the commission or its agents at such airport or air navigation facility;

provided, that in no cause shall the public be deprived of its rightful, equal and uniform use of the landing areas or air navigation facilities.

In each case mentioned in paragraphs (1), (2), and (3) the commission may establish the terms and conditions of the contract, lease, or other arrangement, and may fix the charges, rentals or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenses of operation and maintenance of the system of territorial airports and air navigation facilities. Such charges shall be reasonable and uniform for the same class of privilege, service or thing.

(b) **Under other operation.** The commission may, by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person the privilege of operating, as agent of the Territory or otherwise, any airport owned or controlled by the commission: **provided** that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the commission might not have undertaken under subsection (a) of this section.

(c) **Miscellaneous fees and charges.** The commission may fix and regulate, from time to time, reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the commission in connection therewith, for the purpose of meeting the expenses of operation and maintenance of the system of territorial airports and air navigation facilities.

(d) **Liens.** To enforce the payment of any charges for repairs or improvements to, or storage or care of any personal property made or furnished by the commission or its agents in connection with the operation of an airport or air navigation facility owned or operated by the commission, the commission shall have liens on such property, which shall be enforceable by the commission as provided by sections 8775-8779. [L. 1947, c. 32, pt. of s. 1.]

(NOTE: In the last line of the above section, original figures "8875-8779" changed to "8775-8779": obvious clerical error.)

[Sec. 4915.09.] Sec. 9. **Federal aid.** The commission is authorized to accept, receive, receipt for, disburse, and expend federal moneys, and other moneys, public or private, made available by grant or loan to accomplish, in whole or in part, any of the purposes of this chapter. All federal mon-

eys accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States, and the commission is authorized to enter into any contracts which may be required in connection therewith. All nioneys received by the commission pursuant to this section shall be deposited in the treasury and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purpose for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.10.**] Sec. 10. **Contracts—law governing.** The commission may enter into any contracts necessary to the execution of the powers granted it by this chapter. All contracts made by the commission shall be made pursuant to the laws of the Territory governing the making of like contracts; **provided,** however, that where the planning, acquisition, construction, improvement, maintenance, or operation of any airport, or air navigation facility is financed wholly or partially with federal moneys, the commission may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.11.**] Sec. 11. **Exclusive rights prohibited.** The commission shall grant no exclusive right for the use of an airway, landing area, or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases and other arrangements pursuant to section 8 of this chapter. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.12.**] Sec. 12. **Public purpose of activities.** The acquisition of any lands or interests therein pursuant to this chapter, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the Territory in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity. [L. 1947, c. 32, pt. of s. 1.]

RULES AND ORDERS; HEARINGS AND INVESTIGATIONS.

[Sec. 4915.13.] Sec. 13. **Rules, regulations, standards.** (a) **Powers to issue.** The commission may perform such acts, issue and amend such orders, make, promulgate, and amend such reasonable general or special rules, regulations and procedures, and establish such minimum standards, consistent with the provisions of this chapter, as it shall deem necessary to carry out the provisions of this chapter and to perform its duties hereunder: all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using or traveling in aircraft, and the safety of persons and property on land or water, and developing and promoting aeronautics in the Territory. No rule or regulation of the commission shall apply to airports or air navigation facilities owned or operated by the United States.

(b) **Conformity to federal legislation and rules.** No rules, regulations, orders or standards prescribed by the commission shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulations promulgated or standards established pursuant thereto.

(c) **How made.** All rules and regulations of general effect, having the force and effect of law, shall be approved by the governor, shall be published once in a newspaper of general circulation, and shall be subject to sections 466-476 inclusive, **provided** that public hearings thereon may be held by any member of the commission, the director, or others, as provided in section 14. Where such rules or regulations have only a special effect, the same shall not be subject to sections 466-476, and need not be approved by the governor or published, but shall not be obligatory or enforceable under sections 20 and 21 unless (1) made in the form of an order served upon the persons affected either by registered mail or in person, and (2) the persons affected shall have had reasonable notice and opportunity to be heard, as provided in section 15 (b).

(d) **Distribution.** The commission shall provide for the publication and general distribution of all of its rules, regulations and procedures having general effect. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.14.] Sec. 14. **Commission orders, notice and opportunity for hearings, judicial review.** (a) Every order of the commission requiring performance of or desistance from certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license, or refusal of a renewal thereof, (1) shall set forth the reasons

therefor and shall state the acts to be done or requirements to be met, (2) shall be made only after reasonable notice and an opportunity to be heard, and (3) shall be served upon the persons affected either by registered mail or in person.

(b) In every case where reasonable notice and opportunity for hearing are required under the provisions of this section and section 13, the commission shall, on not less than five days' notice personally served, or seven days' notice by registered mail (to be computed from the date of mailing of the notice), specify a time when and place where the person affected may be heard, **provided,** that in cases of emergency where the public interest so requires the amount of notice may be shortened, or a temporary order may be issued pending the holding of the hearing. To the extent practicable, hearings on such matters shall be held in the county where the affected person resides or does business.

(c) Any person aggrieved by an order of the commission or by the grant, denial or revocation of any approval, license or certificate, or refusal of a renewal thereof, may file an appeal therefrom in the office of the clerk of the circuit court of the circuit in which such person resides or does business within ten days from the date of personal service thereof upon him, or twelve days from the date of mailing of such notice by registered mail. The proceedings shall not, however, operate to suspend such order, grant, denial, revocation or refusal unless upon proper order of a court of competent jurisdiction. Such proceeding may be instituted upon the ground that the action of the commission is unreasonable or contrary to law and the particulars thereof shall be specified. The proceeding shall be prosecuted against said commission. The commission, as defendant, shall be served with summons as in civil actions, by service upon the director, or upon the chairman or secretary of the commission. Upon service of summons upon it, the commission shall, within ten days, file its answer and transmit to the clerk of such court, a transcript of the original papers, if any, filed with it in the matter, and a certified transcript of all evidence adduced at any hearing held in regard thereto. Upon the filing of such answer the proceeding shall be at issue and upon application of either party may be advanced and assigned for hearing at the earliest possible date.

The circuit judges at chambers shall have jurisdiction of such proceedings, such jurisdiction to be confined to questions of law. No additional evidence shall be received by

the court, but the court may order additional evidence to be taken before the commission, and the commission may, after hearing such additional evidence, modify its order or action. The commission shall file a transcript of the additional record with the court.

Proceedings for review by the supreme court may be taken and had in the same manner, but not inconsistent with the provisions of this chapter, as is provided for a review of an order or decree of a circuit judge at chambers.

Upon the final termination of any such judicial review, the commission shall enter an order or take other action in accordance with the mandate of the court. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.15.] Sec. 15. **Federal-territorial joint hearings, reciprocal services, accident reporting.**

(a) **Joint hearings.** The commission is authorized to confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this chapter, or relating to the sound development of aeronautics.

(b) **Reciprocal services.** The commission is authorized to avail itself of the cooperation, services, records and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this chapter. The commission shall furnish to the agencies of the United States its cooperation, services, records and facilities, insofar as may be practicable.

(c) **Accident reporting.** The commission shall report to the appropriate agency of the United States all accidents in aeronautics in the Territory of which it is informed, and shall insofar as is practicable preserve, protect and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation. [L. 1947, c. 32, pt. of s. 1.]

CERTIFICATES AND LICENSES.

[Sec. 4915.16.] Sec. 16. **Federal airman and aircraft certificates.**

(a) **Operation without—unlawful.** It shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within the Territory unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States. It shall be unlawful for any person to engage in aeronautics as an airman in the Territory unless he has an appropriate effective airman certificate, permit, rating or license issued by the

United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by the United States.

(b) **Exhibition of certificates.** Where a certificate, permit, rating or license is required for an airman by the United States, it shall be kept in his personal possession when he is operating within the Territory and shall be presented for inspection upon the demand of any public officer, or any other officer of the Territory or of a municipality or member, official or employee of the commission authorized pursuant to section 20 of this chapter to enforce the aeronautics laws, or any official, manager or person in charge of any airport upon which the aircraft shall land, or upon the reasonable request of any person. [L. 1947, c. 32, pt. of s. 1.]

[**Sec. 4915.17.**] Sec. 17. **Licensing of airports.** (a) **Site approvals.** Except as provided in subsection (d) of this section, the commission is authorized to provide for the approval of airport sites and the issuance of certificates of such approvals. No charge shall be made for any such approval. Upon the promulgation of a rule or regulation providing for such approvals, any person desiring or planning to construct or establish an airport may, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the commission for approval of the site. The commission shall with reasonable dispatch issue a certificate granting approval of a site if it is satisfied: (1) that the site is adequate for the proposed airport; (2) that such proposed airport, if constructed or established, will conform to minimum standards of safety; and (3) that safe air traffic patterns can be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity. An approval of a site may be granted subject to any reasonable conditions which the commission may deem necessary to effectuate the purposes of this section, and shall remain in effect, unless sooner revoked by the commission, until a license for an airport located on the approved site has been issued pursuant to subsection (b) of this section. The commission may, after notice and opportunity for hearing to a holder of a certificate of approval, revoke such approval when it shall reasonably determine (1) that there has been an abandonment of the site as an airport site, or (2) that there has been a failure within the time prescribed, or if no time was prescribed, within a reasonable time, to develop the site as an airport or to comply with the conditions of the approval, or (3) that because of change of

physical or legal conditions or circumstances the site is no longer usable for the aeronautical purposes for which the approval was granted.

(b) **Licenses.** Except as provided in subsection (d) of this section, the commission is authorized to provide for the licensing of airports and the annual renewal of such licenses. It may charge license fees not exceeding one hundred dollars ($100) for each original license, and not exceeding ten dollars ($10) for each renewal thereof. Upon the promulgation of a rule or regulation providing for such licensing, the commission shall with reasonable dispatch, upon receipt of an application for an original license and the payment of the duly required fee therefor, issue an appropriate license if it is satisfied that the airport conforms to minimum standards of safety and that safe air traffic patterns can be worked out for such airport and for all existing airports and approved airport sites in its vicinity. All licenses shall be renewable annually upon payment of the fees prescribed. Licenses and renewals thereof may be issued subject to any reasonable conditions that the commission may deem necessary to effectuate the purposes of this section. The commission may, after notice and opportunity for hearing to the licensee, revoke any license or renewal thereof, or refuse to issue a renewal, when it shall reasonably determine (1) that there has been an abandonment of the airport as such, or (2) that there has been a failure to comply with the conditions of the license or renewal thereof, or (3) that because of change of physical or legal conditions or circumstances, the airport has become either unsafe or unusable for the aeronautical purposes for which the license or renewal was issued. It shall be unlawful for any person to operate an airport without an appropriate license for such, as may be duly required by rule or regulation issued pursuant to this subsection.

(c) **Public hearings.** In connection with the grant of approval of a proposed airport site or the issuance of an airport license under subsections (a) and (b) of this section, the commission may, on its own motion or upon the request of an affected or interested person, hold a hearing open to the public, and shall hold a hearing when and as required by section 15.

(d) **Exemptions.** The requirements of this section as to site approvals and licenses shall not apply to airports owned or operated by the United States. The commission may, from time to time, to the extent necessary, exempt any other class of airports, pursuant to a reasonable classification or

grouping, from any rule or regulation promulgated under this section or from any requirement of such a rule or regulation, if it finds that the application of such rule, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety. [L. 1947, c. 32, pt. of s. 1.]

ENFORCEMENT PROCEEDINGS; PENALTIES.

[Sec. 4915.18.] Sec. 18. **Enforcement of aeronautics laws.** (a) **Enforcement officers.** It shall be the duty of the commission, its members, the director, officers and employees of the commission, and every territorial and county officer charged with the enforcement of territorial laws and ordinances, to enforce and assist in the enforcement of this chapter and of all rules, regulations and orders issued pursuant thereto and of all other laws of the Territory relating to aeronautics; and in that connection each of the aforesaid persons is authorized to inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where airports, air navigation facilities, or other aeronautical activities are operated or conducted. In aid of the enforcement of this chapter, the rules, regulations and orders issued pursuant thereto, and all other laws of the Territory relating to aeronautics, the powers of police officers are hereby conferred upon the commission, each of its members, the director, and such of the officers and employees of the commission as may be designated by it to exercise such powers, including the power to serve and execute warrants and arrest offenders, and the power to serve notices and others.

(b) **Court aid.** The commission is authorized, in the name of the Territory, to enforce the provisions of this chapter and the rules, regulations and orders issued pursuant thereto by injunction or other legal process in the courts of the Territory. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.19.] Sec. 19. **Penalties.** Any person violating any of the provisions of this chapter, or any of the rules, regulations or orders issued pursuant thereto, duly made and promulgated or served, shall be punishable by a fine of not more than one thousand dollars ($1000) or by imprisonment of not more than one year, or both. [L. 1947, c. 32, pt. of s. 1.]

[Sec. 4915.20.] Sec. 20. **Exchange of violations information.** The commission is authorized to report to the appropriate federal agencies and agencies of the states and other territories of the United States all proceedings instituted

charging violation of section 18 of this chapter, or section 4929 or 4934, and all penalties, of which it has knowledge, imposed upon airmen or the owners or operators of aircraft for violations of the laws of the Territory relating to aeronautics or for violations of the rules, regulations or orders of the commission. The commission is authorized to receive reports of penalties and other data from agencies of the federal government, the states and other territories of the United States and, when necessary, to enter into agreements with federal agencies and the agencies of such states and other territories governing the delivering receipt, exchange and use of reports and data. The commission may make the reports and data of the federal agencies, the agencies of such states and other territories and the courts of the Territory available, with or without request therefor, to any and all courts of the Territory, and to any officer of the Territory or of a municipality authorized pursuant to section 20 of this chapter to enforce the aeronautics laws." [L. 1947, c. 32, pt. of s. 1.]

Section 2. **Section 4930** of the Revised Laws of Hawaii 1945, as amended by Act 181 of the Session Laws of Hawaii 1945, and **section 4932** of the Revised Laws of Hawaii 1945 are hereby repealed.

Note: § **4931.01-.02,** see post, **L. 1947,** c. 31 (A-76).

Section 3. There is hereby added to chapter 87 of the Revised Laws of Hawaii 1945 a new section to be numbered 4934, to read as follows:

"**Sec. 4934. Reckless operation of aircraft a misdemeanor.** It shall be unlawful for any person to operate an aircraft in the air, or on the ground or water, while under the influence of intoxicating liquor, narcotics, or other habit-forming drug, or to operate an aircraft in the air or on the ground or water, in a careless or reckless manner so as to endanger the life or property of another. For the purposes of this section a hydroplane shall be deemed an aircraft. In any proceeding charging careless or reckless operation of an aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics, or by territorial regulations governing aeronautics. Any person violating this section shall be guilty of a misdemeanor, and punishable by a fine of not more than one thousand dollars ($1000), or imprisonment for not more than one year, or both.

For any violation of this section or section 4929, in addition to, or in lieu of, the penalties hereinabove provided or provided by said section 4929, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the Territory for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under said sections or as a contempt of court." [L. 1947, c. 32, s. 3.]

Section 4. Chapter 87A of the Revised Laws of Hawaii 1945, added by Act 182 of the Session Laws of Hawaii 1945, is hereby amended by deleting the paragraph numbered (7) of **section 4935.01** thereof, and by substituting for the words "superintendent" or "superintendent of public works", wherever the same appear, the words "Hawaii aeronautics commission".

Section 5. **Section 5260** of the Revised Laws of Hawaii 1945, as amended by Act 82 of the Session Laws of Hawaii 1945, is hereby further amended by deleting therefrom subsection (c).

Note: See post, **L. 1947,** c. 196 (A-83) and **Supplement** at end of this volume, following "Joint Resolutions".

Section 6. Nothing contained in this Act shall be construed to limit any right, power or authority of the Territory, or any department or agency thereof, or of a municipality, to regulate airport hazards by zoning.

Section 7. Upon the effective date of this Act:

(a) All airports and air navigation facilities of the Territory and other real and personal property appurtenant to or used in connection with such airports and facilities, now under the jurisdiction, control and operation of the superintendent of public works, shall vest in the commission, and shall be under the jurisdiction, control and operation of the commission as provided in this Act;

(b) All documents, records, and properties pertaining to airports and air navigation facilities and to the administration thereof, in the custody or control of the superintendent of public works, shall be forthwith transferred by him to the commission.

(c) The unexpended balance of the territorial airport fund shall continue in said fund available for expenditure as provided in this Act, and the unexpended balance of revenues derived under section 4930, as amended, shall be paid into the airport revenue fund, created by this Act.

(d) The commission shall have the powers vested in the superintendent of public works by Act 50 of the Special Session Laws of Hawaii 1941, the special fund thereby created being hereby continued under the authority of the commission. The unexpended balances of all other appropriations theretofore made for the planning establishment, construction, expansion, improvement, maintenance, repair and operation (including acquisition of land or interest therein) of any airport or air navigation facility of the Territory are hereby transferred to the commission for the respective purposes for which such moneys were originally appropriated.

Section 8. All rules and regulations duly promulgated by the territorial aeronautics commission and in force on July 1, 1932, or by the superintendent of public works and in force on July 1, 1947, shall continue in force unless and until changed or rescinded by the Hawaii Aeronautics Commission as provided by this Act, and the penalties prescribed by the laws under which such rules were adopted shall continue to apply to such rules.

Section 9. No eminent domain proceeding pending on the effective date of this Act for the acquisition of property or interests therein for airport purposes (including protection of airports) shall be affected by this Act. In any other pending proceeding relating to airports or air navigation facilities the Hawaii Aeronautics Commission shall be substituted for the superintendent of public works, as may be appropriate.

Section 10. If any section, sentence, clause, or phrase of this Act or the application thereof to any person or circumstance shall be held invalid, the remaining portion of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared invalid.

Section 11. All other acts or parts of acts inconsistent with the provisions of this Act are hereby amended to conform hereto.

Section 12. This Act shall take effect ten days after the organization meeting of the commission, but not later than July 1, 1947, except that the commission shall be appointed and shall hold its organization meeting and may appoint its staff prior to the said effective date.

(Approved May 2, 1947.) **H.B. 493, Act 32.**

Chapter 87. AERONAUTICS, UNIFORM LAW FOR.

Sec. 4930 repealed L. 1947, c. 32 (A-75), s. 2, ante.

Series A-76: ACT 31

An Act to Officially Establish the Name of Honolulu Airport.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 4931.01.**] Section 1. [**Honolulu Airport.**] All that area set aside by executive order No. 1016 for John Rodgers Airport and Keehi Lagoon Seaplane Harbor to be under the control and management of the superintendent of public works, under date of April 12, 1943, is hereby designated as "Honolulu Airport." [L. 1947, c. 31, s. 1.]

[**Sec. 4931.02**] Section 2. [**John Rodgers Terminal.**] When a new transpacific terminal building is constructed, it shall be designated as "John Rodgers Terminal" in memory of the late Commander John Rodgers, U. S. Navy, who made the first flight in a Navy flying boat to these islands in September, 1925. [L. 1947, c. 31, s. 2.[

Section 3. This Act shall take effect on July 1, 1947.

(Approved May 2, 1947.) **S.B. 332, Act 31.**

Note: See **J. R. 9,** post, re conveyance of part of Honolulu Airport to the United States; also see **J. R. 18,** post, re Kahului and Puunene airports. § **4932,** repealed **L. 1947,** c. 32 (A-75), s. 2, ante; § **4934,** new, added **L. 1947,** c. 32 (A-75), s. 3, ante; §§ **4935.01-.15,** amended **L. 1947,** c. 32 (A-75), s. 4, ante.

Chapter 89. FEDERAL AID HIGHWAYS ACT: § **4963,** amended **L. 1947,** c. 180 (A-74), s. 2, ante; § **4964,** amended **L. 1947,** c. 73 (F-210), s. 4, post, and see note to that Act for rewritten section. § **4964.01** was added L. 1945, c. 172 (A-86); §§ **4970-71,** repealed L. 1945, c. 82 (A-87); § **4972** was amended L. 1945, c. 82 (A-87); § **4973,** repealed L. 1945, c. 82 (A-87); §§ **4973.01-.07** were added L. 1945, c. 173 (A-88); §§ **4975.01-.06** were added L. 1945, c. 164 (A-89).

Chapter 90. HARBORS.

Series A-77: ACT 228

An Act Relating to the Board of Harbor Commissioners and the Personnel Employed Thereby; Amending Section 4982 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4982** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto the following three sentences:

"The board may appoint a director without regard to the provisions of chapter 2. He shall be the chief engineer and chief administrative officer of the board. Said director shall be qualified for the position on the basis of experience in the construction, maintenance and management of harbor facilities or other public utilities."

Section 2. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 320, Act 228.**

Note: As so amended, § 4982 reads:

Sec. 4982. Secretary; office. The board shall elect one of their number to act as secretary. They shall also designate a place in the city of Honolulu as their office, which shall remain open during business hours. The board may appoint a director without regard to the provisions of chapter 2. He shall be the chief engineer and chief administrative officer of the board. Said director shall be qualified for the position on the basis of experience in the construction, maintenance and management of harbor facilities or other public utilities. [L. 1911, c. 163, s. 2; R. L. 1925, s. 833; R. L. 1935, s. 1731; R. L. 1945, s. 4982; am. L. 1947, c. 228, s. 1.]

Note: § **4990** was amended L. 1945, c. 112 (A-90).

Series A-78: ACT 72

An Act Relating to the Board of Harbor Commissioners, its Revenues and Expenditures Therefrom, and Its Powers, Duties, and Functions; Amending Sections 4996 and 4998 of the Revised Laws of Hawaii 1945, as Amended, Repealing Section 4997 Thereof, Adding Thereto a New Section 4998.01, and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4996 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 4996. Rates, how fixed.** The board is authorized and directed to adjust and fix and enforce the rates assessable and chargeable by it in respect to wharfage, demurrage and other rates pertaining to harbors, wharves and properties managed and operated by it, so as to produce therefrom:

(a) In respect to all such harbors, wharves and other properties, except such as are principally used for recreation or the landing of fish (but such exception shall not apply to the properties under the control and management of the board at Kewalo Basin ewa of Ala Moana Park, Honolulu), revenues for the harbor board special fund sufficient to: (1) pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; (2) provide for all expenses of operation and maintenance of such properties, including reserves therefor, and including the expenses of operation of the board in connection therewith; and (3) reimburse the general fund of the Territory for all bond requirements for general obligation bonds which are or shall have been issued for harbor or wharf improvements, or to refund any of such improvement bonds, excluding, however, bonds the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties.

(b) In respect to properties under its control and management which are principally used for recreation or the landing of fish (except the properties under the control and management of the board at Kewalo Basin ewa of Ala Moana Park, Honolulu), revenues for the general fund of the Territory, based on the expenses of operation and maintenance and the cost to the Territory of the improvements used; **provided,** that rates established under this paragraph shall be reasonable and shall be fixed with due regard to the primary purposes of providing public recreational facilities and promoting the fishing industry." [L. 1931, J. R. 1; R. L. 1935, s. 1742; am. L. 1935, c. 133, s. 1; R. L. 1945, s. 4996; am. L. 1947, c. 72, s. 1.]

Section 2. **Section 4997** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 3. Section 4998 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 4998. Harbor board special fund; harbor board reserve fund.** The funds collected by the board under paragraph (a) of section 4996 shall be deposited in the treasury of the Territory to the credit of the harbor board special fund, which fund is hereby created.

Said harbor board special fund shall be applied, used and disposed of as follows, and in the following order of priority:

First, for the payment when due of all bonds and interest thereon, for the payment of which such revenues are or

shall have been pledged, charged or otherwise encumbered, including reserves therefor;

Second, for the expenses of operation and maintenance of the properties designated in paragraph (a) of section 4996, including reserves therefor, and including the expenses of operation of the board in connection with such properties, general administrative overhead to be prorated between said properties and the properties designated in paragraph (b) of section 4996;

Third, for such purposes, within the jurisdiction, powers, duties and functions of the board, including the creation and maintenance of reserves, as shall have been covenanted in any resolution or resolutions of the board providing for the issuance of revenue bonds;

Fourth, to reimburse the general fund of the Territory for all bond requirements for general obligation bonds which are or shall have been issued for harbor or wharf improvements, with respect to properties designated in paragraph (a) of section 4996 (excluding, however, bonds the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties), or to refund any of such improvement bonds, except in so far as such obligation of reimbursement has been or shall be cancelled by the legislature. Such bond requirements are the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;

Fifth, for any purpose within the jurisdiction, powers, duties and functions of the board (except in respect to properties principally used for recreation or the landing of fish, but such exception shall not apply to properties located at Kewalo Basin ewa of Ala Moana Park, Honolulu), including renewals, replacements, reconstruction, engineering, investigation, planning, and any and all other outlays or expenditures not otherwise restricted in this section, all or any of which in the judgment of said board are or may be necessary or proper in the performance of its duties or functions. The board may expend from said fund not to exceed one hundred thousand dollars in any one year, of which not to exceed twenty-five thousand dollars shall be expended on any one island, for new structures and permanent improvements to land or for acquisition of real property or interests therein, but the aforesaid limitations shall not apply to the expenses of engineering, investigation or planning of such facilities, nor to expenditures for replacement or reconstruction of existing harbor board facilities.

The board may make transfers from said fund to the harbor board reserve fund which is hereby created, in such amounts and at such times as it shall determine, but the amount of such reserve fund shall not at any time exceed seven hundred and fifty thousand dollars. Said reserve fund may be expended for any of the purposes of and in the same manner as the harbor board special fund and shall be subject to the same limitations as said special fund. No amount held in or paid from said reserve fund shall be used to reduce the rates assessable or chargeable by the board under section 4996 (a), but in computing its expenses under section 4996 (a) the board shall not include any amount for the purpose of increasing or replenishing the reserve fund." [L. 1941, c. 142, s. 2; am. L. 1943, c. 97, s. 1; R. L. 1945, s. 4998; am. L. 1945, c. 112, s. 2; am. L. 1947, c. 72, s. 3.]

Section 4. There is hereby added to chapter 90 of the Revised Laws of Hawaii 1945 a new section to be numbered 4998.01 and to read as follows:

"**Sec. 4998.01. Expenditures.** Expenditures by the board shall be made upon vouchers signed by the chairman or acting chairman; **provided,** that the chairman, with the approval of the board, may, in writing, designate a qualified subordinate to sign vouchers, make routine reports, and perform other routine business duties, subject to the direction of the chairman, for whose acts the chairman shall be responsible.

The board may cause work to be performed by day labor or by contract or by any other method deemed by the board to be most advantageous to the Territory." [L. 1947, c. 72, s. 4.]

Section 5. Notwithstanding any provision of this Act or any other provision of law, the board of harbor commissioners is hereby authorized to expend moneys in the harbor board special fund or harbor board reserve fund for the following purposes:

Extension of freight shed at Nawiliwili Harbor, Kauai.

Construction of additional concrete bulkhead wall at Kewalo Basin, Oahu, and other improvements at Kewalo Basin for the accommodation of the fishing industry.

Improvements to channel, Kailua Harbor, Hawaii.

Extension to Kaunakakai Wharf, Molokai.

Section 6. There is hereby appropriated from the general fund of the Territory for expenditure by the board of harbor commissioners for the operation and maintenance of properties under its control and management which are principally used for recreation or the landing of fish (except the properties under the control and management of the board at Kewalo Basin ewa of Ala Moana Park, Honolulu), for the biennial period ending

June 30, 1949, the following sums, or so much thereof as may be necessary:

A.	Personal services		$ 84,520
	Life-saving patrol	$ 35,850	
	Other personal services	48,670	
B.	Other Current Expenses		56,300
	Life-saving patrol	6,300	
	Other current expenses	50,000	
C.	Equipment		5,000
	Life-saving patrol	5,000	
	Total		$145,820

Provided, that the appropriations herein made for the life-saving patrol shall not take effect if the duties and functions of the board of harbor commissioners in relation thereto are transferred by act of this legislature.

Section 7. This Act shall take effect July 1, 1947.

(Approved May 12, 1947.) **S.B. 338, Act 72.**

Chapter 91. RADIO CONTROL.
Sec. 5021, amended **L. 1947,** c. 180 (A-74), s. 3, ante.

Title 14: TAXATION.*
Chapter 94. ADMINISTRATION, etc.

* Note: For rewritten sections of the **Tax Laws** amended by **L. 1947** see **Supplement** following "Joint Resolutions".

Series A-79: ACT 8

An Act to Transfer the Taxation Maps Bureau from the Department of Public Lands and Survey to the Office of the Tax Commissioner of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5145** of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the third and fourth sentences thereof.

Section 2. Upon the effective date of this Act, all records, equipment and personnel of the taxation maps bureau shall be transferred from the department of public lands and survey to the office of the tax commissioner of the Territory, without loss of vacation allowance, service credit and other rights and privileges on the part of such personnel, and all appropriations made for the taxation maps bureau shall be transferred to the office of the tax commissioner.

Section 3. This Act shall take effect July 1, 1947.

(Approved April 23, 1947.) **H.B. 478, Act 8.**

Note: See **Supplement** for rewritten § 5145.

Series A-80: ACT 149

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, Relating to Real Property Tax Exemptions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5151** of the Revised Laws of Hawaii 1945, is hereby amended by amending item 28, thereof, to read as follows:

"28. The property belonging to the Lutheran Church of Honolulu, situated on Alani Drive, Honolulu, city and county of Honolulu, designated and used as the parsonage or residence of the pastor of the church, so long as the same shall be so used." [Am. L. 1947, c. 149, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 36, Act 149.**

Series A-81: ACT 111

An Act to Amend Chapter 96 of the Revised Laws of Hawaii 1945, as Amended, Relating to Taxes, Revenues, and County Finances; to Amend Chapters 99 and 101 of Said Revised Laws, as Amended, Relating to Consumption and General Excise Tax; to Amend Chapter 102 of the Revised Laws of Hawaii 1945, as Amended, Relating to Income Taxes; to Amend Chapter 104 of the Revised Laws of Hawaii 1945, Relating to Liquor Taxes; to Repeal Chapter 105 of Said Revised Laws, as Amended, Relating to Personal Property Taxes; and to Provide Revenues for the Counties and the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Effective January 1, 1947, Section 5252 of the Revised Laws of Hawaii 1945, as amended by Act 82 of the Session Laws of Hawaii 1945, is further amended to read as follows:

"**Sec. 5252. Real property tax, determination of rate.** (a) The board of supervisors of the county of Hawaii and the county of Kauai shall submit to the treasurer on or before March 31, of each year (except as provided in the next section) a budget showing the estimated receipts and estimated expenditures of such county during and for such year in substantially the following form:

COUNTY OF .....
BUDGET FOR THE CALENDAR YEAR .....

Item No.	Estimated Expenditures	COLUMN I	COLUMN II Amounts deductible from, or otherwise available for respective items.	COLUMN III Itemized amounts to be raised from property tax or from county's share of general excise tax.
(1)	**Territorial bonds** issued for county purposes (interest on serial bonds, and principal of all serial bonds maturing the following year), except bonds issued prior to January 1, 1945, for **highway purposes**	.....	.....	.....
(2)	General **county bonds** (interest on term and serial bonds, sinking fund for term bonds and principal of all serial bonds maturing the following year), except bonds issued prior to January 1, 1945 for **highway purposes**	.....	Water revenues, etc.	.....
(3)	**Schools,** special fund	.....	.....	.....
(4)	**County contributions** specifically required by law to institutions	.....	.....	.....
(5)	**County contributions** to the Employees' Retirement System of the Territory	.....	.....	.....
(6)	Other county items **fixed by law**	.....	.....	.....
(7)	**Permanent improvements and current and operating expenses**	.....	.....	.....
(8)	County's share of **general excise tax**		.....	
(9)	Totals	.....	.....	.....
(10)	Amount to be raised by real property tax			.....
	OTHER ESTIMATED COUNTY REVENUES AND EXPENDITURES			.....

Note: Item (11) relating to "amount to be raised by personal property tax" omitted, see section 4 of this act.

Bond funds. For item (1) under column I the treasurer, on or before January 31 of each year, shall compute and submit to the board of supervisors of each county the amounts which are payable to or retainable by the Territory for such county for that calendar year to meet interest charges for serial bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by the Territory for county purposes (except bonds issued prior to January 1, 1945 for highway purposes).

For item (2) under column I the board of supervisors of each county shall compute the amounts payable by such county for such calendar year to meet interest charges for term and serial bonds, sinking fund charges for term bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by such county (except bonds issued prior to January 1, 1945 for highway purposes).

School funds. For item (3) under column I the amount for such county shall be the amount of the special school fund budget for such county for such calendar year itemized in the manner specified in section 1802.

County contributions. For item (4) under column I the board of supervisors of each county shall compute the amounts payable, or required to be appropriated or contributed, by such county for such calendar year to or for public or quasi-public institutions, such as hospitals, which payments, appropriations or contributions are by law specifically required of such county.

In item (5) under column I the board of supervisors of each county shall include the amount estimated by the board of trustees of the employees' retirement system of the Territory, pursuant to Chapter 15, to be due from such county for such calendar year on account of the employees thereof who are members of the employees' retirement system, which estimate shall be submitted to such board of supervisors by the trustees on or before January 31 of the calendar year.

In item (6) under column I shall be included any additional amount or amounts specified or required by special acts of the legislature relating to the county and which cannot be included in any other item under column I.

In item (7) under column I shall be included: (a) All items for permanent improvements for the county; and (b) current and operating expenses of the county includ-

ing, among other items, the operating expenses of the departments of such county, any portion or all of the expenses of operating and equipping sewer and cesspool pumping systems as operated or extended, road maintenance and repair and other current, operating or general needs; **provided,** however, that there shall not be included in said item (7) any amounts for the payment of any charges for interest, sinking fund or principal on any bonds issued for county purposes, any law to the contrary notwithstanding (but nothing herein contained shall be construed to prohibit the use of any general fund moneys for the payment of any bond requirements in the event of a subsequently developing shortage of other available moneys therefor).

Under column II there shall be included by the board of supervisors, opposite any item under column I, any amounts which are required or authorized by law to be deducted from, or offset against, the tax rate calculations for such calendar year for such item, representing revenues or other funds available or estimated to be available during the year and applicable on account of such item under column I. Under column II there further shall be set forth the amount of item (8), i.e. the county's share of the general excise tax as estimated by the board of supervisors.

Under column III there shall be included, opposite each of items (1) to (7) of column I, a figure equal to the amount, if any, remaining after deducting or offsetting the amount included under column II of such item from or against the amount included under column I of such item.

For item (9) under columns I and II there shall be stated the totals of the amounts set forth in items (1) to (8) inclusive, under said columns I and II, and for item (9) under column III there shall be stated the amount of the total of column I less the total of column II.

For item (10) under column III there shall be stated all or such portion of the amount of item (9) under column III as is to be raised from real property taxes.

[For item (11) under column III there shall be stated the amount of the county's requirements for such year to be met by personal property taxes, as provided by section 5255.] [Out, see sec. 4 hereof.]

Under the heading 'other estimated county revenues and expenditures' there shall be included estimates of miscellaneous revenues and estimated expenditures therefrom not included in items (1) to (10)* inclusive, of the budget and any other data bearing on county finance. [* am. by sec. 4 hereof.]

The budget so prepared shall be approved by a resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, except that such budget may, but need not, be published in a newspaper before final adoption in order to be valid. No such publication shall be made in any newspaper except a daily newspaper published in the county, unless no daily newspaper is published in such county, in which event such publication may be made in any newspaper published in such county. If the budget is submitted earlier than March 31 (or the date provided in the next section), the same may be amended from time to time by resolution similarly adopted and filed with the treasurer on or before such date.

The treasurer shall, on or before May 10 (except as provided in the next section), determine the rate per centum at which the taxable real property in the taxation division in which the county is situated shall be taxed in order to yield the amount set forth in item (10) under column III.

If, however, the amount shown in item (10) under column III of the budget for a county shall exceed, in the case of:

The county of Hawaii, the sum of $1,200,000
The county of Kauai, the sum of 600,000

the amount shown by the item shall be reduced to the amount last hereinabove stated for such county. No deduction shall be made by the treasurer from any item of such budget.

In determining the real property tax rate the aggregate value of real property as assessed for the purposes of the tax for the current year, with calculations made as of April 20 of assessed values of the current year, shall be taken as a basis. In all cases where appeals are unsettled, the values used shall be the lowest claimed by the taxpayer in each case, plus fifty per centum of the value in dispute.

The rate determined shall forthwith be communicated to the tax commissioner and shall be the rate at which such real property shall be taxed for such calendar year under section 5139 in the taxation division in which is included the county for which the budget is submitted.

In so far as the validity of any tax rate shall be concerned, the provisions of this subsection shall be deemed directory, and no informality and no other defect whatsoever, whether in form or substance, in such budget, shall invalidate or be deemed to invalidate said budget or any tax rate based thereon, so long as the rate fixed pursuant to such budget shall be based on an amount not exceeding the amount set forth hereinabove or otherwise provided by law, as the tax rate limit for such county for real property taxes.

If the board of supervisors shall fail to transmit a budget within the time hereinabove required, the treasurer shall adopt, as a basis for fixing the real property tax rate for the county, a figure equal to ten per centum less than the amount stated in this section as the limit of the amount to be raised for such county by real property taxation.

Any information or estimates necessary to be given to any board of supervisors by any officers, either county or territorial, or by any other persons in order to enable the board to prepare the budget or any item thereof for any calendar year, shall be submitted by such officers or persons to the board not later than January 31 of such year, any other law to the contrary notwithstanding.

(b) In the city and county of Honolulu and the county of Maui the rate at which real property shall be taxed for each calendar year under section 5139 shall be fixed on or before May 15 of each year by resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, provided that the date prescribed for 1947 shall be May 24 instead of May 15. The provisions of this paragraph as to the date for fixing said tax rate shall be deemed directory and failure to adopt such resolution on or before the date hereinabove prescribed shall not invalidate the tax rate. The rate so determined by the board shall forthwith be communicated to the tax commissioner and shall be the rate at which real property shall be taxed for such calendar year under section 5139 in the county concerned; **provided,** that if such rate, applied to the assessed value of the taxable real property in the county for the current year computed according to the provisions of subsection (a) with respect to the basis for determination of real property tax rates, is calculated to yield for said year more than the amount hereinafter set forth, the tax commissioner shall reduce the rate to such rate as will yield the amount hereinafter set forth and shall apply the reduced rate. Such amounts are as follows:

For 1947

In the city and county of Honolulu.....$6,000,000
In the county of Maui..... 850,000

For 1948 and later years

In the city and county of Honolulu..... 8,000,000
In the county of Maui..... 900,000

The board of supervisors of the city and county of Honolulu and the county of Maui shall not be required to submit to the treasurer the complete budget required by subsection (a), but shall, on or before the date required by law for other counties, submit to the treasurer a budget, approved by a resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, showing the estimated requirements of the county during and for such year for or on account of items (1) to (6) inclusive of the form of county budget prescribed by subsection (a), containing all of the information there required under columns I, II and III for said items (1) to (6) inclusive. [Am. by sec. 4 hereof.]

Any information or estimates necessary to be given to the board of supervisors by any officers, either county or territorial, or by any other persons in order to enable the board to prepare the foregoing statement, shall be submitted by such officers or persons to the board not later than January 31 of such year, any other law to the contrary notwithstanding." [R. L. 1945, s. 5252; am. L. 1945, c. 82, s. 3; am. in toto L. 1947, c. 111, ss. 1, 4.]

Section 2. Effective January 1, 1948, section 5253 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"In each year in which the legislature meets in regular session, each county shall submit to the legislature, by filing with the director of the bureau of the budget at least twenty days before the convening of the legislature, for transmission by said director to the legislature, the budget of said county for the current calendar year and the next succeeding calendar year. Such budgets shall show estimated receipts as well as estimated expenditures. The form in which such budgets shall be submitted and the itemization thereof shall be as prescribed by the director of the bureau of the budget, who may require the inclusion therein of relevant information concerning the last two completed calendar years."

Note: As so amended, § 5253 reads as shown in the Supplement at the end of this volume, following "Joint Resolutions".

Section 3. Effective January 1, 1947, section 5254 of the Revised Laws of Hawaii 1945, as amended by Act 82 of the Session Laws of Hawaii 1945, is further amended to read as follows:

"Sec 5254. **Property taxes, disposition of proceeds; county's share of general excise tax.** All property taxes (including real and personal property taxes for any year, whether before or after 1933) shall be paid into the territorial treasury each month within ten days after collection. Out of such taxes paid into the territorial treasury from each county, the treasurer shall retain from time to time in special accounts sufficient amounts for the purposes specified in items (1) and (5), under column III, respectively, of the budget provided for in section 5252, and shall pay the balance thereof to the treasurer of such county, as soon as possible after the same have been paid into the territorial treasury, or after the disposition of any tax appeal, as the case may be, for the purposes specified in items (2), (3), (4) and (6) under column III of the budget, and for the purposes of meeting the other requirements of the county for the year. The county treasurer shall, from time to time, allot from the balance, or from the county's share of the general excise tax when received by the county, sufficient for the purposes specified in items (2), (3), (4) and (6), respectively, and shall keep such allotments in special accounts for use for such purposes only and shall under no circumstances allow any part thereof to be used for any other purpose; nor shall the territorial treasurer allow any moneys so retained for the purposes specified in items (1) and (5) to be used for any other purpose; **provided,** however, that if any amount included in item (6) shall, by law, be required to be retained by the territorial treasurer for any purpose specified by law, such amount shall be so retained by the treasurer and applied to such purpose. If at any time there shall be insufficient moneys for the purposes of any special account, moneys in the general account of the Territory or county, as the case may be, may be used for such purposes, in which case the general account may later be reimbursed by transfers from such special account.

Each county shall receive a share of the general excise tax, consumption tax, and compensating tax (hereinbefore and hereinafter called the county's share of the general excise tax), as follows: The treasurer of the Territory, in quarterly installments, on or about the last days of March, June, September, and December, in each such calendar year, shall pay to the county treasurer of each county, to

become a general fund realization of said county, expendable as such, except as otherwise provided by law, the county's share of the general excise tax for such year, determined as hereinafter provided. Each such quarterly payment shall be an estimated amount, which shall be adjusted by the treasurer in making the succeeding quarterly payment. The county's share of the general excise tax shall be determined as follows: the total of the distributions so made to the counties from the collections of general excise tax, consumption tax and compensating tax shall be in an amount determined by crediting to the counties (in the aggregate, irrespective of where the collections are made), one per centum of the tax base of all collections of said taxes which have been made at the rate of two and one-half per centum. Said total credit shall be divided among the counties so that each county shall receive the percentage of the total hereinafter stated, that is:

In the case of the city and county of Honolulu..... 55%
In the case of the county of Maui 15%
In the case of the county of Hawaii 20%
In the case of the county of Kauai 10%

All property taxes (including real and personal taxes for any year, whether before or after 1933, and delinquent taxes and taxes collected by reason of assessments of omitted property, additional assessments or the settlement of tax appeals) collected during any calendar year in any county shall (except as otherwise provided by law) be applied on account of the requirements of such county for such year, **provided,** however, that in the counties of Hawaii and Kauai the amount of taxes so distributed shall not exceed in the aggregate, a maximum amount equal to the sum of (a) the amount set forth under column III of the budget for such county, or the amount prescribed by law as the limit of the amount to be raised by property taxes for such county, whichever is the smaller, and (b) the amount of any deficiency in meeting the requirements of such county for such preceding calendar year as set forth in its budget for such year, caused by insufficient property tax collections during such year; **provided,** that in case there was such deficiency in meeting the requirements of such county for such preceding calendar year, then any delinquent tax collections made during the current year of taxes assessed in prior years shall be expendable forthwith by the county on account of any obligations incurred or commitments made during such preceding year and not paid or met because of such deficiency in collections.

Any real or personal property taxes collected during any year in the county of Hawaii or county of Kauai, in excess of said maximum amount, shall be retained by the treasurer and applied to meet the requirements of such county for the succeeding calendar year and shall by him be deducted from the amount (item (10) under column III of the budget) which would otherwise be used by him in fixing the real property tax rate for the county for the succeeding calendar year pursuant to section 5252, thereby reducing the tax rate. If the amount of the county requirements set forth in item (10) under column III of the budget shall be in excess of the county's maximum limit fixed by section 5252, to be raised by real property taxes, the treasurer shall first reduce said requirements to the amount of said tax rate limit as provided by section 5252, and shall then deduct from said reduced amount the amount of such excess collections pursuant to this paragraph. Such excess collections shall not be taken into consideration by the board of supervisors in fixing and submitting to the treasurer its budget for the succeeding calendar year pursuant to section 5252.

All payments to be made by the territorial treasurer as aforesaid shall be made upon warrants issued by the territorial auditor; **provided,** however, that nothing in this subtitle contained shall be construed as in any way amending or repealing the provisions of any law authorizing the withholding, by the territorial treasurer or the territorial auditor, of moneys in the territorial treasury belonging or due to any county for the payment of principal or interest for territorial bonds, or any other charges." [R. L. 1945, s. 5254; am. L. 1945, c. 82, s. 4; am. in toto L. 1947, c. 111, s. 3.]

Section 4. Effective January 1, 1948:

(a) Section 5251 of chapter 96 of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the definition of 'personal property'.

Note: As so amended, § 5251 reads as shown in the **Supplement** at the end of this volume.

(b) Section 5252 of chapter 96 of the Revised Laws of Hawaii 1945, as amended by Act 82 of the Session Laws of Hawaii 1945 and by section 1 of this Act, is hereby further amended in the following respects:

(1) By deleting from the form of county budget in subsection (a) thereof, item (11).

(2) By deleting from subsection (a) of said section 5252 the twelfth paragraph following the form of county budget, which explains said item (11).

(3) By deleting from subsection (a) of said section 5252, from the thirteenth paragraph following the form of county budget, the figure "(11)", and inserting in lieu thereof "(10)".

(4) By deleting from subsection (b) of said section 5252 the words "and item (11)", "and said item (11)", wherever the same appear.

(c) **Section 5255** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 5. Effective January 1, 1947, **section 5256** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 6. Effective January 1, 1948, the subtitle of chapter 96 of the Revised Laws of Hawaii 1945 now headed "Personal Property Tax" is amended in the following respects:

(a) By amending the subtitle heading to read as follows:

"REQUIRED COUNTY EXPENDITURES".

(b) By amending **sections 5257, 5258,** and **5259** by deleting from each of said sections the words "personal property tax moneys" and by inserting in lieu thereof in each of said sections the following:

"general fund realizations".

Note: See **Supplement** at end of this volume.

Section 7. Effective January 1, 1948, **chapter 105** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 8. Effective July 1, 1947, and applicable to taxes accruing on and after said date, section 5374 of chapter 99 of the Revised Laws of Hawaii 1945, as amended by Act 100 of the Session Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 5374. Rate of tax.** The rate of the tax hereby imposed shall be two and one-half per cent." [L. 1935, c. 160, s. 3; R. L. 1945, s. 5374; am. L. 1945, c. 100, s. 1; am. L. 1947, c. 111, s. 8.]

Section 9. Effective July 1, 1947, and applicable to taxes accruing on and after said date, **section 5455** of chapter 101 of the Revised Laws of Hawaii 1945, as amended by Acts 100 and 253 of the Session Laws of Hawaii 1945, is hereby further amended in the following respects:

(a) By amending subsection A thereof by amending the twelfth, thirteenth, fourteenth and fifteenth lines of said subsection A to read as follows:

"Millers or processors of sugar, raw or refined, two and one-half per cent; canneries, two and one-half per cent; all manufacturers on whose gross income a tax is not otherwise levied in this chapter, one and one-half per cent."

(b) By amending subsection B thereof by amending the first two paragraphs of said subsection to read as follows:

"**B. Tax on business of selling tangible personal property; producing.** (1) Upon every person engaging or continuing within this Territory in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to two and one-half per cent of the gross proceeds of sales of the business; **provided,** however, that in the case of a wholesaler, the tax shall be equal to one per cent of the gross proceeds of sales of the business, and in the case of a producer, the tax shall be equal to one and one-half per cent of the gross proceeds of sales of the business.

(2) **Provided,** that gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions and in accordance with the provisions of the Constitution of the United States and the Acts of the Congress of the United States which may be now in force or may be hereafter adopted."

(c) By amending subsection C thereof by amending the first sentence of said subsection to read as follows:

"**C. Tax upon contractors.** (1) Upon every person engaging or continuing within this Territory in the business of contracting, the tax shall be equal to two and one-half per cent of the gross income of the business."

Provided, however, that the rate of tax levied upon any person engaging or continuing within this Territory in the business of contracting, measured by gross income received on account of uncompleted contracts entered into prior to the date of approval of this Act, shall be one and one-half per cent.

(d) By amending subsection D thereof to read as follows:

"**D. Tax upon theaters, amusements, radio, broadcasting stations, etc.** Upon every person engaging or continuing within this Territory in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to two and one-half per cent of the gross income of the business."

(e) By amending subsection E thereof to read as follows:

"**E. Tax on service business.** Upon every person engaging or continuing within this Territory in any service business

or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of any such business."

(f) By amending subsection F thereof to read as follows:

"**F. Professions.** Upon every person engaging or continuing within this Territory in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of such practice or exposition."

(g) By amending subsection G thereof to read as follows:

"**G. Tax on other business.** Upon every person engaging or continuing within this Territory in any business, trade, activity, occupation, or calling not included in the preceding subsections or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to two and one-half per cent of the gross income thereof. This subsection shall apply to the gross income of persons taxable under other subsections hereof not derived from the exercise of privileges taxable thereunder."

Note: As so amended, § **5455** reads as shown in the **Supplement** at the end of this volume.

Section 10. **Section 5467** of the Revised Laws of Hawaii 1945, as amended by Act 253 of the Session Laws of Hawaii 1945, is hereby further amended by amending the fourth sentence thereof to read as follows:

"**Provided,** that no preliminary notice shall be necessary where the amount of the tax is calculated by the commissioner from gross income returned by the taxpayer as subject to the tax (unless the taxpayer shall have claimed that the applicable rate of tax is lower than the rate of tax applied by the commissioner); in such case the tax shall be due and payable on the tenth day after the date the statement was mailed."

Note: As so amended, § **5467** reads as shown in the **Supplement** at the end of this volume.

Section 11. **Section 5254** of the Revised Laws of Hawaii 1945, as amended by section 3 of this Act, shall not govern the time of payment to the several counties of their share of the general excise tax for 1947. Said county's share of the general excise tax for 1947 shall be paid in two installments, on or about the last days of September and December, 1947, said installments to be based on the collections of taxes accruing on and after July 1, 1947.

Section 12. From the general excise tax moneys made available to the county of Hawaii for the years 1947 and 1948, the board of supervisors of said county shall pay any increases in salary or bonuses required by legislation enacted by the twenty-fourth legislature, and from the remainder shall appropriate and make available for expenditure the amounts hereinafter designated in items 1 to 35, inclusive, for the purposes expressed in said items.

South Hilo District

1. Rights of way and construction of Ululani Street from Kukuau Street to Wailoa Street and construction of the Extension of Hualalai Street from Kinoole Street to Ululani Street..... $75,000
2. Construction of curbs, sidewalks and widening of road along that portion of the makai side of Kalanianaole Avenue, beginning at the southeast corner of Grant 9072 and running towards the lands of Honohononui, which does not abut upon or require work to be done on privately owned land..... 11,025
3. Rights of way and construction of Waiolama Street from Pauahi Street to Piopio Street 25,000
4. Rights of way and construction of Pauahi Street from Kilauea Street to Kamehameha Avenue..... 60,000
5. Construction of the extension of Manono Street from Lanikaula Street to Kawili Street and construction of Kawili Street from Manono Street to Kilauea Avenue..... 25,000
6. Construction of Huea Street from Lihiwai Street to Kainehe Street, Waiakea..... 6,000
7. Rights of way and construction of Mokuola Street from Kamehameha Avenue to Liholiho Street, Waiakea 20,000
8. (a) Construction of Haihai Street from Kinoole Street towards junction of main Waiakea Homesteads Road at Lot 813..... 20,000
   (b) Construction of road from northwest corner of Lot 905 towards Lot 1098..... 5,000
9. Construction of Baker Avenue from Kamehameha Avenue towards Krauss Avenue, Keaukaha..... 9,000
10. Grading and leveling Hualani Park, Keaukaha.... 20,000
11. Furnishing truck and other equipment for use in Hawaiian Homes Tract..... 3,250
12. Construction of store building at Keaukaha Hawaiian Homes Tract..... 6,000
13. Hilo Municipal Golf Course—Grading Fairways, etc. 20,000
14. Construction of gymnasium at Waiakeawaena School 50,000

15. Construction of gymnasium at Piihonua Park	50,000
16. Grading Kapiolani School Ground	10,000
17. Grading Puueo Park, Wainaku Avenue	5,000
18. Hilo Memorial Hospital Laundry	
(a) Construction of building	20,000
(b) Purchase of equipment	45,000
Hamakua District	
19. Ahualoa Homesteads, construction of road from Lot 3, Grant 7190, third series, towards Lot 12, Grant 4923, third series	50,000
20. Kaapahu Homesteads, construction of road from Lot 31, Grant 4551 towards Lot 41, Grant 5146	10,000
21. Supplementary appropriation for construction Honokaa Hospital	100,000
Kohala District	
22. Extension of Kynersly Road from end of present paved road towards main government road (Hawi to Kapaau)	40,000
23. Construction of Kaauhuhu Homesteads Road from main road at Hawi Village towards Lot 85, Grant 8649, Kaauhuhu Homesteads	15,000
24. Surveys, rights of way, purchase of pipe and laying of water pipe line from Lindsay tunnel in the land of Halawa to the concrete reservoir in the Kaauhuhu Homesteads and improvements to the Kokoiki Water System, North Kohala	30,000
25. Improvements to Waimea Water System, South Kohala. Installation of a four-inch pipe line from end of present six-inch pipe at Lot 95, Puukapu Homesteads, second series, along the main road towards South Kohala-Hamakua boundary	15,000
26. Construction of Puukapu Homesteads Road from Lot 53 running towards Lot 41, first series	25,000
Kona Districts	
27. Purchase and construction of water storage tanks at Konawaena School	50,000
28. Holualoa School	
(a) Construction of principal's cottage	10,000
(b) Construction of gymnasium	15,000
Kau District	
29. Naalehu School, construction of principal's cottage	10,000
Miscellaneous	
30. Wilder Road, South Hilo, from Kaumana Road towards the land of Kukuau	7,000
31. Construction Halaula School Kindergarten Building	10,000

32. For flood control project at Naalehu..... 20,000
33. Special School Fund to include $25,000.00 for Pahala, Kapapala schools consolidation..... 253,725
34. Additional Car allowance for patrolmen, police department, county of Hawaii..... 18,000
35. Purchase three fire apparatus 750 GPM pumpers, Hilo fire department, county of Hawaii..... 36,000

Section 13. (a) **Section 5502** of the Revised Laws of Hawaii 1945, as amended, is hereby amended by deleting from the second and third lines thereof the words "seven and one-half per centum" and inserting in lieu thereof the words "ten per centum".

Note: As so amended, § 5502 now reads as shown in the **Supplement** at the end of this volume.

(b) Section 5503 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 5503. Tax on individuals.** There shall be assessed, levied, collected and paid for each taxable year upon the net income of every individual doing business in or receiving or deriving income from sources within the Territory, or income included in gross income by sections 5505-5507, a tax equal to the sum of the following:

Three per centum of the amount of net income not in excess of five thousand dollars;

Three and one-half per centum of the amount of net income in excess of five thousand dollars but not in excess of ten thousand dollars.

Four per centum of the amount of net income in excess of ten thousand dollars but not in excess of twenty thousand dollars;

Four and one-half per centum of the amount of net income in excess of twenty thousand dollars but not in excess of forty thousand dollars;

Five per centum of the amount of net income in excess of forty thousand dollars but not in excess of seventy thousand dollars;

Five and one-half per centum of the amount of net income in excess of seventy thousand dollars but not in excess of one hundred thousand dollars; and

Six per centum of the amount of net income in excess of one hundred thousand dollars." [L. 1932, 2d, c. 44, s. 2; R. L. 1935, s. 2032; am. L. 1939, c. 213, s. 6; R. L. 1945, s. 5503; am. L. 1947, c. 111, pt. of s. 13.]

(c) This section shall apply to all income taxes due January 1, 1948 or for a taxable year commencing in 1947, and thereafter.

Section 14. (a) **Section 5601** of chapter 104 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By amending the definition of "dealer" to read as follows:

" 'Dealer' means the holder of a manufacturer's license, or a wholesaler's license, under the liquor law."

(2) By amending the definition of "purchaser" to read as follows:

" 'Purchaser' means the holder of a retail dealer's license under the liquor law, or a dispenser, club or vessel owner, or a person who purchases liquor for consumption and not for resale, but shall not include (a) a person who purchases liquor from the holder of a retail dealer's license under the liquor law, if such seller is not also a dealer as hereinabove defined; or (b) a person who purchases liquor for sacramental purposes".

Note: As so amended, § **5601** reads as shown in the **Supplement** at the end of this volume.

(b) **Section 5604** of chapter 104 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the words "six per cent" which appear in the third line thereof and inserting in lieu thereof "eight per cent".

(c) **Section 5607** of chapter 104 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the first sentence thereof and inserting in lieu thereof the following:

"Every taxpayer shall, on or before the twentieth day of each month, file with the assessor of the taxation division in which his business premises are located, or with the commissioner in Honolulu, a return showing all sales of liquor made by him during the preceding month, showing separately the amount of the non-taxable sales, and the amount of the taxable sales, and the tax payable thereon."

Note: As so amended, § **5607** reads as shown in the **Supplement** at the end of this volume.

(d) This section shall take effect on July 1, 1947; **provided,** that all sales of liquor made before July 1, 1947, which were subject to the tax imposed by chapter 104 of the Revised Laws of Hawaii 1945 as it read prior to the amendments made by this Act, shall be returned and the tax thereon paid as provided by said chapter 104 as it read prior to the amendments made by this Act.

Section 15. This Act shall not be construed as affecting in any manner, to the detriment of the Territory, any taxes, interest, fines, penalties, forfeitures or other liabilities, or obligations, existing, due or incurred prior to the effective dates of the sec-

tions of this Act, nor as affecting the liability of any person to prosecution for any misdemeanor or other criminal offenses committed prior to said effective dates under any statutes hereby amended, repealed or superseded; and all such taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors and other offenses may be assessed, enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent and subject to the same conditions, as if this Act had not been enacted.

Section 16. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 17. Except as hereinabove otherwise provided, this Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 81, Act 111.**

Series A-82: ACT 36

An Act to Amend Section 5260 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Territorial Highway Fund.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5260** of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding the following sentence to subparagraph (2) of subsection (b) thereof, to read:

"The territorial highway engineer shall advise each county of the amount of its actual share as determined at the close of the calendar year, and the excess or deficiency, if any, which will be added or deducted in determining the share of the county for the following year."

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **H.B. 208, Act 36.**

•Note: See next act and for § **5260** rewritten, as now amended, see **Supplement** at the end of this volume. § **5259** is repealed **L. 1947,** c. 212 (B-106), post.

Series A-83: ACT 196

An Act Relating to Fuel Taxes and the Disposition Thereof; Amending Chapter 100 of the Revised Laws of Hawaii 1945, and Section 5260 of Chapter 96 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5260 of the Revised Laws of Hawaii 1945, as amended by Act 82 of the Session Laws of Hawaii 1945, is hereby further amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

"**Sec. 5260. Special funds in treasury of Territory.** (a) There are created in the treasury of the Territory two special funds to be known, respectively, as territorial highway fund and territorial airport fund. All taxes collected under chapter 100 in each calendar year, except the 'city and county of Honolulu extra tax', 'county of Maui extra tax', and 'county of Kauai extra tax', shall be deposited in the territorial highway fund; **provided,** however, that all taxes collected under chapter 100 in respect to gasoline sold for use in or used for airplanes shall be set aside in the territorial airport fund."

(b) By amending paragraph (2) of subsection (b) thereof to read as follows:

"(2) The remaining moneys in the territorial highway fund shall be expendable by the territorial highway department for the design, construction, reconstruction, repair, and maintenance of, and for engineering and acquisition of rights of way for highways in the Territory upon which federal moneys are expendable or have been expended, pursuant to the provisions of chapter 89, and the Federal Highway Act and legislation supplementary thereto; **provided,** that the expenditures from such fund for new construction work, including acquisition of rights of way, shall be so apportioned to the counties by the territorial highway engineer that, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, there shall be expended for each county the estimated amount of its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the territorial highway engineer except as hereinafter stated, and to be computed on the following basis: there shall be credited to each county the amount of the collections made each year for deposit in said fund, for fuel sold or used within such county; **provided,** that fuel intended for ultimate use in another county shall be credited

to the county in which the same is to be so used; **provided,** further, that the county of Hawaii extra tax shall be credited directly to the share of said county and shall not be subject to deduction for bonds issued by counties or for repairs or maintenance. The tax commissioner shall estimate the amount of the said collections for each county for the year. There shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the amount of the bond requirements of the several counties for the year pursuant to paragraph (1) of this subsection, as determined by the respective county treasurers. The tax commissioner and the county treasurers shall certify such amounts to the territorial highway engineer and the territorial treasurer on or before January 31 of each year. There further shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the cost for the year of repairs and maintenance of federal aid highways, including the cost of equipment and general administrative overhead. The balance remaining after the deduction of charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections (not including in the credit for Hawaii, for said purpose, the county of Hawaii extra tax), and the amount so determined for each county shall be deemed its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, **provided,** that there shall be additionally credited to the county of Hawaii's share the county of Hawaii extra tax. If the actual share of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, repairs and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

Provided, that there shall be expended from the territorial highway fund for new construction in West Hawaii, and charged against the county of Hawaii's share of the collections, an amount at least equal to ten per cent of the principal of any territorial bonds issued on or after January 1, 1947 for new construction for the county of Hawaii; **provided,** further, that there shall be paid from the territorial highway fund and charged against the county of Hawaii's share of the collections, the same as if expended directly for new construction, the following requirements for territorial bonds issued on or after January 1, 1947 for new construction for the county of Hawaii, to wit: the interest on such

bonds and the principal of all serial bonds maturing the following year, such payments to be made by the territorial treasurer, who shall certify the amount thereof to the territorial highway engineer, from time to time.

As used in this subsection the term 'new construction' includes the items enumerated in the first sentence hereof, except repairs and maintenance." [R. L. 1945, s. 5260; am. L. 1945, c. 82, s. 5; am. L. 1947, c. 32, s. 5, and c. 196, s. 1; and see L. 1947, c. 36, s. 1.]

Note: See **Supplement** for rewritten section.

Section 2. Section 5404 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 5404. Distributors and others to pay certain license taxes.** (a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the commissioner for each gallon of liquid fuel refined, manufactured, produced or compounded by such distributor and sold or used by him in the Territory or imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the Territory. Any person who shall sell or use any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay such tax as would have applied to such sale or use by the distributor himself. The rates of the tax hereby imposed are as follows:

(1) For each gallon of diesel oil, one cent.

(2) For each gallon of gasoline sold for use in or used for airplanes, five cents.

(3) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Hawaii, or in any county for ultimate use in the county of Hawaii, six cents, of which tax one-third, or two cents, shall be known as the 'county of Hawaii extra tax' and is so referred to in chapter 96.

(4) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the city and county of Honolulu, or in any county for ultimate use in the city and county of Honolulu, four cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'city and county of Honolulu extra tax' and is so referred to in chapter 96.

(5) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Maui, or in any county for ultimate use in the county of Maui, four cents, and in addition thereto during the period

July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'county of Maui extra tax' and is so referred to in chapter 96.

(6) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Kauai, or in any county for ultimate use in the county of Kauai, four cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'county of Kauai extra tax' and is so referred to in chapter 96.

(b) Every distributor or other person who shall use any diesel oil for operating a motor vehicle or motor vehicles upon the public highways of the Territory shall, in addition to the tax required by subsection (a) of this section, pay a license tax to the commissioner for each gallon of such diesel oil so used by him. Any diesel oil acquired by a person who has in his ownership, possession or control any vehicle in which diesel oil may be used on the highways, shall be presumed to have been entirely used by such person upon the highways, unless upon proper records and from such other evidence as the commissioner may require it shall be proved to the satisfaction of the commissioner that such diesel oil has not been used by such person on the highways. The rates of the additional tax hereby imposed are as follows:

(1) For each gallon of diesel oil so used upon the public highways in the county of Hawaii, five cents, of which two-fifths, or two cents, shall be known as the 'county of Hawaii extra tax' and is so referred to in chapter 96.

(2) For each gallon of diesel oil so used upon the public highways in the city and county of Honolulu, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'city and county of Honolulu extra tax' and is so referred to in chapter 96.

(3) For each gallon of diesel oil so used upon the public highways in the county of Maui, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'county of Maui extra tax' and is so referred to in chapter 96.

(4) For each gallon of diesel oil so used upon the public highways in the county of Kauai, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the 'county of Kauai extra tax' and is so referred to in chapter 96.

(c) **Provided,** that the tax shall not be collected in respect to any liquid fuel, including diesel oil, shown to the satisfaction of the commissioner to have been sold for use in and actually delivered to, or sold in, the county of Kalawao." [L. 1932, 1st, c. 19, s. 4; am. L. 1933, c. 133, s. 2; am. L. 1937, c. 189, s. 1; am. L. 1939, c. 254, s. 1; am. L. Sp. 1941, c. 26, pt. of s. 1; R. L. 1945, s. 5404; am. L. 1947, c. 196, s. 2.]

Section 3. Section 5408 of the Revised Laws of Hawaii 1945, is hereby amended by amending subsection (1) thereof to read as follows:

"**Sec. 5408. Distributors, etc., to keep records.** (1) Every distributor shall keep in the Territory and preserve for three years a record in such form as the commissioner shall prescribe, showing (a) the total number of gallons of fuel refined, manufactured, produced, or compounded by such distributor and sold or used by him within each county during each month of the calendar year, and if for ultimate use in another county, the name of that county; (b) the total number of gallons of such fuel imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in each county during each month, and if for ultimate use in another county, the name of that county; (c) the total number of gallons of such fuel sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during each month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; and (d) such other data and figures relevant to the enforcement and administration of the provisions of this chapter as the commissioner may require."

Note: See **Supplement** for rewritten § **5408,** and other tax amendments.

Section 4. Section 5409 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 5409. Statements and payments, when and how made; delinquent when; penalties.** Each distributor, and each person subject to the provisions of subsection (b) of section 5404 or subsection (2) of section 5408, shall, within thirty days after the last day of each calendar month, file with the commissioner on forms to be prescribed, prepared and furnished by him, a statement, authenticated as provided in section 5123, showing separately (a) the total number of gallons of fuel refined, manufactured or compounded by such distributor or person within the Territory and sold or used during such month by him within each county,

and if for ultimate use in another county, the name of that county; (b) the total number of gallons of fuel imported by him and sold or used within each county by him during such month, and if for ultimate use in another county, the name of that county; (c) the total number of gallons of fuel acquired by him during such month from persons not subject to the four or six cents tax on such transaction, as the case may be, and sold or used within each county by him during such month, and if for ultimate use in another county, the name of that county; (d) the total number of gallons of such fuel by him sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during such month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; (e) the total number of gallons of fuel on hand in his possession in all of the counties at the beginning of the month, the total number of gallons thereof by him refined, manufactured, produced, compounded or acquired from persons not subject to the four or six cents tax on such transaction, as the case may be, or imported during the month, and the total number of gallons thereof on hand in his possession at the end of the month; and (f) such additional information relative to the acquisition, purchase, manufacture or importation into the Territory, and the sale, use or other disposition, of diesel oil by such distributor or person during such month, as the commissioner shall by regulation prescribe; and such distributor or person shall pay at the time of submitting such report to the commissioner, the tax on each gallon of fuel (including diesel oil) by him sold or used in each county during such preceding month, as shown by such statement and required by this chapter; **provided,** however, (1) that such tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and (2) that the tax shall be paid only once upon the same fuel. All such taxes payable for any month shall be and become delinquent after the expiration of thirty days immediately following the end of the month, and shall thereupon bear a penalty of ten per centum of the amount so delinquent and, in addition thereto, interest on such delinquent amount at the rate of two-thirds of one per centum per month or any fraction thereof until paid." [L. 1932, 1st, c. 19, s. 7; am. L. 1933, c. 133, s. 3; am. L. 1937, c. 189, s. 2; am. L. Sp. 1941, c. 26, pt. of s. 1; am. L. 1943, c. 4; R. L. 1945, s. 5409; am. L. 1947, c. 196, s. 4.]

Section 5. The city and county of Honolulu extra tax shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the city and county of Honolulu for deposit in a special fund hereby created, to be known as the "fuel tax fund of the city and county of Honolulu." The moneys in said fund shall be expended only for the repair and maintenance of public roads and highways of the city and county of Honolulu, including storm drains and bridges.

Section 6. The county of Maui extra tax shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Maui for deposit in the road fund of said county, expendable for the purposes set forth in section 5713 of the Revised Laws of Hawaii 1945, as heretofore or hereafter amended. The provisions of this section shall be deemed subject to the provisions of sections 4967 to 4969, inclusive, of the Revised Laws of Hawaii 1945, to the end that any funds hereby made available, which are allotted by the county of Maui for the construction or reconstruction of any highway or portion thereof eligible for federal aid, shall be placed under the control and at the disposal of the territorial highway engineer, for the purposes stated in said sections.

Section 7. The county of Kauai extra tax shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Kauai for deposit in the road fund of said county, expendable for the construction and reconstruction of public roads and highways of the county of Kauai, including, without prejudice to the generality of the foregoing, costs of new land therefor, of permanent storm drains under, along, or across highways, and of new bridges.

Section 8. This Act shall take effect on July 1, 1947.

(Approved May 19, 1947.) **S.B. 362, Act 196.**

Series A-84: ACT 114

An Act Relating to the Bank Excise Tax and Amending Section 5312 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5312 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "fifty thousand dollars," the words "one hundred and twenty-five thousand dollars" in the thirteenth line of said section, being the second line on page 627 of said Revised Laws.

Section 2. Any assessment made for the year 1947 prior to the enactment of this Act shall be amended to conform to the provisions of section 5312 of said Revised Laws as herein amended, on or before the 20th day of May, 1947, which amended assessment shall have the full force and effect of a duly made original assessment, and the time of filing an appeal under section 5318 of said Revised Laws shall for the year 1947 be extended to June 1.

Section 3. This Act shall take effect upon its approval but shall be retroactive to the first day of January, 1947.

(Approved May 14, 1947.) **S.B. 444, Act 114.**

Series A-85: ACT 113

An Act Relating to Taxation, Imposing a Compensating Tax, and Adding to Title 14 of the Revised Laws of Hawaii 1945 a New Chapter Providing Therefor and Imposing Penalties; Also Amending Chapters 99 and 101 of the Revised Laws of Hawaii 1945, as Amended, Being the Consumption Tax Law and General Excise Tax Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to title 14 of the Revised Laws of Hawaii 1945 a new chapter to be numbered 98.01 and entitled "Compensating Tax Law", to read as follows:

"CHAPTER 98.01. COMPENSATING TAX LAW

Sec. 5370.01. Definitions. 'Commissioner', 'person', 'business', 'engaging in business', 'retailer', 'wholesaler', 'jobber', and 'contractor' have the meanings defined by chapter 101.

'Property' means tangible personal property.

'Purchase' and 'sale' mean and refer to any transfer, exchange or barter, conditional or otherwise, in any manner or by any means, wheresoever consummated, of tangible personal property for a consideration.

'Purchaser' means any person or government or agency thereof purchasing property; **provided,** that the United States, its departments and agencies to the extent immune from the tax imposed by this chapter under the constitution and laws of the United States, shall not be deemed a purchaser.

'Price' means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, and wheresoever paid, provided that cash discounts allowed and taken on sales shall not be included.

'Seller' means any person engaged in the business of selling tangible personal property, wheresoever engaged, but does not include the United States or any of its departments or wholly owned agencies, the Territory of Hawaii or any county thereof, or agency of the Territory or a county. Any person who has in his possession, for sale in the Territory, the property of a non-resident owner, other than as an employee of such owner, shall be deemed the seller of such property, when sold.

'Unlicensed seller' means any seller who, with respect to the particular sale, is not subject to the tax imposed by chapter 101, whether or not he holds a license under said chapter, but shall not include any seller with respect to any sale which is expressly exempted from the tax imposed by chapter 101 by section 5459 or 5460 thereof, or by section 5444.01 added thereto by Act 243 of the Session Laws of 1945, or by an act of the twenty-fourth legislature or later enactment.

'Purchasing agent' means any person who, as an agent and not a seller, for a consideration, is engaged in the Territory in the business of purchasing for his principal or principals from an unlicensed seller or sellers property for use by such principals in the Territory, for example, by forwarding orders for such purchases, in behalf of such principals, it being immaterial whether he is compensated for his services by the seller or by the purchaser; but the term 'purchasing agent' shall not include an employee of the purchaser.

'Representative' means any salesman, commission agent, manufacturer's representative, broker, or other person who is authorized or employed by an unlicensed seller to assist such seller in selling property for use in the Territory, by procuring orders for such sales or otherwise, and who carries on such activities in the Territory, it being immaterial whether such activities are regular or intermittent. Any unlicensed seller who in person carries on any such activity in the Territory shall also be classed as a representative.

'Use' (and any verbal, adjective, adverbial and other equivalent form of any of said terms), herein used interchangeably, means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.02. Imposition of tax; exemptions. There is hereby levied an excise tax on the use in this Territory of tangible personal property which, on or after July 1, 1947, is purchased from an unlicensed seller for use in this Territory, through the activity or with the assistance of a purchasing agent or representative, it being immaterial whether such purchase is induced or brought about wholly or only partly through such activity or assistance. The tax imposed by this chapter shall accrue when such property is acquired by the purchaser and becomes subject to the taxing jurisdiction of the Territory, and shall be paid only once upon or in respect of the same property. The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the Territory. The rates of the tax hereby imposed and the exemptions therefrom are as follows:

(a) If the purchaser is licensed under chapter 101 and is (1) a wholesaler or jobber purchasing for purposes of resale, or (2) a manufacturer purchasing material or commodities which are to be incorporated by such manufacturer into a finished or saleable product (including the container or package in which the product is contained) wherein it will remain in such form as to be perceptible to the senses, and which finished or saleable product is to be sold in such manner as to result in a further tax on the activity of the manufacturer as such manufacturer and not as a retailer, there shall be no tax, provided, that if such wholesaler, jobber, or manufacturer is also engaged in business as a retailer (so classed under chapter 101), paragraph (b) shall apply to him, but the commissioner shall refund to him, from the fund created by section 5468, such amount of tax as he shall, to the satisfaction of the commissioner, establish to have been paid by him to the commissioner or to a person required or authorized to collect such tax, with respect to property which has been used by him for the purposes stated in this paragraph.

(b) If the purchaser is licensed under chapter 101 and is (1) a retailer or other person purchasing for purposes of resale, not exempted by paragraph (a), or (2) a manufacturer purchasing material or commodities which are to be incorporated by such manufacturer into a finished or saleable product (including the container or package in which the product is contained) wherein it will remain in such form as to be perceptible to the senses, and which finished or saleable product is to be sold at retail in this Territory, in such manner as to result in a further tax on the activity of the manufacturer in selling such products at

retail, or (3) a contractor purchasing material or commodities which are to be incorporated by such contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses, the tax shall be one per cent of the purchase price of such property.

In all other cases, two and one-half per cent of the purchase price of such property. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.03. Collection of tax by representative or purchasing agent. (a) Every representative and purchasing agent shall collect the tax imposed by this chapter from the purchaser not later than the time of accrual of said tax, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the commissioner.

(b) The tax commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him may relieve any representative or purchasing agent of the duty of collecting and paying over the tax imposed by this chapter, if he is satisfied that the tax can be effectively collected by other means. Such exemption from the duty of collecting the tax may be cancelled at any time when the commissioner finds that the tax cannot be effectively collected by other means.

(c) The tax commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him, may authorize the collection of the tax imposed by this chapter by a seller not otherwise required to collect the tax. Such seller, when so authorized, shall have the duty of collecting and paying over the tax in the same manner and subject to the same requirements as set out in subsection (a). Such authority may be cancelled at any time when, in the judgment of the commissioner, the tax can more effectively be collected by other means.

(d) In case any representative, purchasing agent, or seller required or authorized to collect the tax under this chapter fails to collect the same, or having collected the tax fails to pay over the same as provided by this chapter, whether such failure be the result of his own acts or the result of acts or conditions beyond his control, he shall nevertheless be personally liable to the Territory for the amount of such tax. In the case of a representative so failing to collect or pay over the tax, if such representative is an employee of the seller, the seller likewise shall be personally liable to the Territory for the amount of such tax, whether or not the seller has assumed the duty of collecting the tax pursuant to subsection (c).

(e) Every representative, purchasing agent or seller required or authorized to collect the tax shall make returns and payments of the tax at the same time and in the same manner as is provided with respect to purchasers. All of the provisions of this chapter with respect to returns, reports, records, payments, penalties and interest, appeals, investigations and audits, assessments, tax collection procedure, criminal offenses, and the general administrative powers and duties of the tax commissioner, shall apply to such representatives, purchasing agents and sellers the same as to purchasers.

(f) The tax collected pursuant to this section shall be held in trust for the Territory and for the payment of the same to the proper collecting officer in the manner and at the time required by this chapter. Any person collecting such tax who shall appropriate or convert the same to his own use or to any use other than the payment of the tax as herein provided, and who shall fail to pay over the amount of tax so collected at the time required by this chapter, shall be deemed guilty of an embezzlement of property of the Territory and upon conviction thereof shall be punished at hard labor for a period of not to exceed ten years or by fine not to exceed five times the amount of money so embezzled, and any failure by the person so collecting the tax to pay the same over within the time provided by this chapter, after demand therefor, shall be taken and held to be prima facie evidence of the embezzlement. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.04 Returns. On or before the twentieth day of each calendar month, any person who has become liable to the payment of a tax under this chapter during the preceeding calendar month in respect of any property or the use thereof, shall file a return with the assessor of the taxation division in which such property was held when such tax first became payable, or with the commissioner at Honolulu, setting forth a description of the property and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the commissioner by regulations shall require, and the purchase price thereof. Such return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 5370.02 upon the price so returned. Any such tax remaining unpaid after said twentieth day following the end of the calendar month during which the same first became payable shall become delinquent. The commissioner for good cause may extend the time for making any return required by this Act, and

may grant such reasonable additional time within which to make such return as he may deem proper, but the time for filing such return shall not be extended beyond the twentieth day of the second month next succeeding the regular due date of such return. Provided, that a receipt from a representative, purchasing agent or seller required or authorized to collect the tax, given to a purchaser in accordance with the provisions of section 5370.03, shall be sufficient to relieve such purchaser from further liability for the tax to which such receipt may refer, or for the return thereof.

On or before March 20 in each year every representative, purchasing agent or seller required or authorized to collect the tax during the preceeding year, and any purchaser who has become liable to the payment of taxes both under this chapter and also under chapter 101 during the preceding calendar year (or during the preceding tax year if such purchaser has established a tax year other than the calendar year), shall file a return summarizing his liability under this chapter for such year, in such form as the commissioner shall prescribe. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.05. Audits; additional assessment; refunds. All of the provisions of sections 5467-5471 of chapter 101 are hereby made applicable to the taxes imposed by this chapter, to the refunding of overpayments thereof, and to assessments, investigations and audits in connection therewith, for which purpose any references therein to 'gross income' or 'gross proceeds of sale' shall be deemed to refer to the purchase price subject to tax under this chapter, and any references to the 'annual return' shall, if the taxpayer is not required to file an annual return under this chapter, be deemed to refer to the monthly return mentioned in the first paragraph of section 5370.04. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.06. Appeal; correction of assessment. If any person having made the return and paid the tax as provided by this chapter feels aggrieved by the assessment so made upon him by the tax commissioner, he may appeal from said assessment in the manner and within the time and in all other respects as provided in section 5535, for which purpose the word 'income' shall be deemed to refer to purchase price. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.07. Records. It shall be the duty of every person who is engaged in any business in the Territory and who is required under this chapter to make returns, to keep in the English language in the Territory and preserve for a period of five years, books of account or other records in sufficient detail to enable the commissioner, as far as reasonably practicable, to determine whether or not any taxes imposed by this chapter are payable in respect of the property concerned, and if so payable, the amount thereof. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.08. Penalty for delinquency. A penalty of ten per centum shall be added to and become a part of any tax or portion thereof becoming delinquent, and in addition thereto said tax as so increased shall bear interest at the rate of two-thirds of one per centum for each month or fraction thereof from the expiration of fifteen days from the date of delinquency until paid, which interest shall be added to and become a part of such tax. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.09. Collection of taxes by assumpsit or distraint; concurrent jurisdiction of district magistrates. Any tax which is delinquent under this chapter may be collected:

(a) By action in the name of the commissioner or any collector or deputy collector of taxes, in assumpsit, with or without attachment of the real or personal property of the person liable, and it shall be unnecessary, in order to secure the issuance of the writ of attachment, for the officer bringing such action to file any affidavit, other than the usual sworn complaint in ordinary assumpsit actions where no attachment is sought, with a prayer for such writ; in all such actions the several district magistrates shall have concurrent jurisdiction with the circuit courts, irrespective of the amount claimed.

(b) By distraint in the manner provided by section 5480 of chapter 101 which is hereby made applicable to taxes due under this chapter in the same manner, as nearly as may be, as to taxes due under said law. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.10. Offenses, penalties; fines territorial realizations. It shall be unlawful for any person to fail or refuse to make any return or keep any records required under this chapter. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for a term of not more than one year, or both, in the discretion of the court.

Notwithstanding any other laws to the contrary, the proceeds of all fines (exclusive of costs) imposed for conviction under this chapter shall be territorial realizations and shall be paid into the general fund of the Territory. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.11. Other provisions of chapter 101 applicable. In respect of (a) the examination of books and records and of taxpayers and other persons, (b) procedure and powers upon failure or refusal to make a return or a proper return, and (c) the general administration of this chapter, the commissioner shall have all the rights and powers conferred upon him by chapter 101 with respect to taxes thereby or thereunder imposed; and, without restriction upon the aforesaid rights and powers, sections 5450 and 5467-5472 are hereby made applicable to and with respect to the taxes and the taxpayers, tax officers and other persons, and the matters and things affected or covered by this chapter, in so far as not inconsistent with the provisions of this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 101. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.12. Notification to purchaser. Every representative and purchasing agent who receives, procures, induces, or assists in bringing about any order for the sale of property by an unlicensed seller for use in the Territory shall, before the property is ordered, inform the purchaser in writing of his liability under this chapter, unless the tax has already been collected from the purchaser. Any person who violates the provisions of this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five times the amount of the tax or $1,000, whichever is larger. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.13. Taxes territorial realizations. All taxes collected under this chapter shall be territorial realizations. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.14. Short title. This chapter may be cited, as the compensating tax law'." [L. 1947, c. 113, pt. of s. 1.]

Section 2. **Section** 5372 of chapter 99 of the Revised Laws of Hawaii 1945 is hereby amended by changing the period at the end thereof to a semi-colon, and by adding thereto the following:

"(g) the use or keeping for use of materials or commodities which are to be incorporated by a contractor into the finished work or project required by the contract and which

will remain in such finished work or project in such form as to be perceptible to the senses."

Note: For rewritten sections including the following amendments see **Supplement** at end of this volume, following Joint Resolutions.

Section 3. **Section 5375** of chapter 99 of the Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(a) By deleting from the second line thereof the word "otherwise."

(b) By inserting in the fourth line thereof after the word "same", and following the comma, the words and punctuation: "and without himself being liable in respect of said transaction under the compensating tax law,".

Section 4. **Section 5376** of chapter 99 of the Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(a) By changing the period at the end of paragraph (4) thereof to a comma and adding the following:

"or the compensating tax law."

(b) By deleting paragraph (5) thereof.

Section 5. **Section 5379** of chapter 99 of the Revised Laws of Hawaii 1945, is hereby amended by deleting from the fourth line thereof the word "otherwise".

Section 6. **Section 5442** of chapter 101 of the Revised Laws of Hawaii 1945 is hereby amended by amending the definition of "person" or "company" therein contained (being the fourth paragraph of said section), by adding thereto the following:

"Any person who has in his possession, for sale in the Territory, the property of a non-resident owner, other than as an employee of such owner, shall be deemed the seller of such property, when sold."

Section 7. **Section 5455** of chapter 101 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto, immediately prior to subsection E of said section, a new subsection, reading as follows:

"**D-1. Tax upon sales representatives, etc.** Upon every person classified as a representative or purchasing agent by chapter 98.01, engaging or continuing within this Territory in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the commissions and other compensation attributable to the services so rendered by him."

Section 8. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other

persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 9. This Act shall take effect on July 1, 1947, and shall apply to taxes accruing on and after said date.

(Approved May 14, 1947.) **S.B. 392, Act 113.**

Series A-86: ACT 213

An Act Relating to Exemption of Blind Persons From the Payment of Certain Taxes, and Amending Section 5460, as Amended, Section 5344, Section 5350, Section 5509, Chapter 94 and Chapter 101 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5460,** as amended, of the Revised Laws of Hawaii 1945 is hereby further amended by changing the period at the end thereof to a semi-colon, and by adding thereto a new paragraph to read as follows:

"(m) An amount up to, but not in excess of, $2,000.00 per annum of gross income received by any blind person engaging, or continuing, within the Territory, in any business, trade, activity, occupation, or calling."

Note: For rewritten sections including the following, see **Supplement** at end of this volume, following Joint Resolutions.

Section 2. **Section 5344** of the Revised Laws of Hawaii 1945 is hereby amended by inserting a new paragraph at the end thereof which shall read as follows:

"(d) Compensation paid to a blind person in an amount which, together with dividends exempted from taxation, under section 5350 of this chapter, shall not exceed $2,000.00 per annum, shall be exempt from the tax imposed by this Act."

Section 3. **Section 5350** of the Revised Laws of Hawaii 1945 is hereby amended by inserting a new paragraph at the end thereof which shall read as follows:

"Dividends paid to a blind person in an amount which, together with compensation exempted from taxation under section 5344 of this chapter shall not exceed $2,000.00 per annum, shall be exempt from the tax imposed by this section."

Section 4. In order to obtain allowance of the exemptions provided by sections 1, 2 and 3 hereof, an application for exemption shall be filed in the form of an affidavit or affidavits setting forth in general all facts affecting the right to the exemption and such particular facts as the commissioner may require, to which shall be attached such records, papers and other information as the commissioner may prescribe. Such application for exemption shall be filed on or before March 31 of the first year of registration or within three months after the commencement of business. In the event of allowance of the exemption no further application therefor need be filed unless there be a material change in the facts, but such person nevertheless shall register annually.

The commissioner for good cause may extend the time for registration or the time for filing an application for exemption, but such extension or extensions shall not aggregate more than a total of two months.

If the application for exemption under sections 2 and 3 of this Act be allowed, any deductions made at the source from the dividends or compensation of such blind person shall be refunded by the commissioner.

Section 5. The application for exemption provided in sections 1, 2 and 3 hereof may be made in the calendar year 1947 within a period of thirty days following the effective date of this Act.

Section 6. **Section 5509** of the Revised Laws of Hawaii 1945 is hereby amended by relettering paragraphs (c), (d), (e) and (f) thereof to read (d), (e), (f) and (g) respectively and by inserting therein a new paragraph (c) to read as follows:

"(c) A person whose sight is impaired to the extent of seventy-five percent or more, shall be entitled to deduct an exemption of five thousand dollars, in lieu of the exemptions provided by paragraphs (a) and (b) of this section. The impairment of sight shall be certified to by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose."

Section 7. Chapter 94 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered and to read as follows:

"**Sec. 5150-A. [Exemption, persons with impaired sight.]** Any person whose sight is impaired to the extent of seventy-five percent or more, shall, so long as his sight is so impaired, be exempted from real property taxes on all real property owned by him up to, but not exceeding, a taxable value of ten thousand dollars. The impairment of sight

shall be certified by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose." [L. 1947, c. 213, s. 7.]

Section 8. Chapter 101 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered and to read as follows:

"**Sec. 5455-A. [Exemption as to person with impaired sight.]** Anything in section 5455 to the contrary notwithstanding, the privilege tax levied, assessed, and collected on account of the businesses and other activities of individuals whose sight is impaired to the extent of seventy-five percent or more, shall not exceed one percent of the proceeds, sales, income, or other receipts subject to tax. The impairment of sight shall be certified to by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose." [L. 1947, c. 213, s. 8.]

Section 9. There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, sufficient funds to make the refund payments provided by section 4 of this Act.

(This item not approved.—I. M. S.)

Section 10. This Act shall take effect upon its approval.

(Approved May 21, 1947.) **S.B. 123, Act 213,** except Section 9 of the foregoing bill, which section, being a specific item or specific items in a bill which appropriates money for specific purposes, is hereby disapproved.—I.M.S.

Series A-87: ACT 150

An Act to Amend Chapter 102, Revised Laws of Hawaii 1945, Relating to the Income Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5508** of the Revised Laws of Hawaii 1945 is hereby amended, by amending paragraph (d) thereof to read as follows:

"(d) Amounts transferred or paid into an employees' pension or benefit fund or trust (hereinafter called 'the plan') by any individual or corporation to provide for the payment of reasonable pensions or benefits to his or its employees, not exceeding, however, the greater of the following amounts: (1) five per centum of the net income for the taxable year in the trade or business of such employer;

or (2) seven and one-half per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the plan. **Provided,** that in the application of the foregoing limitations there shall not be counted any amounts transferred or paid into the fund or trust in order to fund past service credits, for services performed prior to the taxable year. The amount required to fund such past service credits shall be deductible in ten annual installments, commencing with the first taxable year in which such deduction is allowable." [Am. L. 1947, c. 150, s. 1.]

Section 2. This Act shall take effect upon its approval, and shall apply to the first taxable year of each taxpayer ending after said approval date, which with respect to existing pension or benefit funds or trusts shall be deemed the first taxable year in which the deduction allowed by the proviso of section 5508(d) of the Revised Laws of Hawaii 1945, as amended by this Act, is allowable.

(Approved May 17, 1947.) **S.B. 95, Act 150.**

[See note at end of next Act.]

Series A-88: ACT 132

An Act Amending Chapter 102, Revised Laws of Hawaii 1945, Relating to the Net Income Tax by Giving Victims of the April 1, 1946, Tidal Waves the Right to Deduct Losses Over a Period of Five Years.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 102, Revised Laws of Hawaii 1945, is hereby amended:

(1) By amending sub-section (h) of **section 5508** thereof to read as follows:

"(h) **Losses of property whether or not connected with a trade or business.** Losses arising from fires, storms, shipwrecks or other casualty or from theft, but only to the extent of the amount not compensated for by insurance or otherwise.

Any person who suffered a loss of property as a result of the tidal waves on April 1, 1946, may deduct one-fifth (1/5) of the amount of such loss each year for a period of five years, the first such year to be the calendar year 1946, or the fiscal year of the taxpayer in which April 1, 1946, is included. Any person entitled to such deduction who has filed a return as provided in section 5519 taking the full

amount of such loss as a deduction from his income for the calendar year 1946, or in the case of taxpayers on a fiscal year, for any fiscal year which included April 1, 1946, may file an amended return on or before March 20, 1948 (amended returns by taxpayers on a fiscal year shall be filed on or before the 20th day of the third month following the close of the fiscal year next following December 31, 1947), deducting one-fifth (1/5) of the amount of the loss sustained as aforesaid from his income for the taxable year in which April 1, 1946, is included."

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 100, Act 132.**

Note: As amended by Acts 132 and 150, L. 1947, § 5508 is rewritten and included in the **Supplement** at the end of this volume.

Series A-89: ACT 135

An Act Relating to Remission and Refunding or Crediting of Taxes on Real and Personal Property Damaged or Destroyed by the Tidal Waves of April 1, 1946.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Remission of taxes.** The tax commissioner is hereby authorized to remit the taxes due on real or personal property damaged or destroyed by the tidal waves of April 1, 1946, for the remainder of the tax year 1946, as follows:

(a) If such property was wholly destroyed, the amount remitted shall be three-fourths of the total tax on such property for the year 1946.

(b) If such property was partially destroyed or was damaged, there shall be determined by the tax commissioner what percentage of the value of the whole property was destroyed or otherwise lost by reason of said tidal waves, and such percentage shall be applied to the total tax on such property. Of the amount of tax so determined, three-fourths shall be remitted.

Section 2. **Applications.** (a) Any person who heretofore has filed with the tax commissioner an application for relief on account of tidal wave loss, or a notice of such loss in any form (including, without prejudice to the generality of the foregoing, notice in the form of an appeal from the assessment of the property involved), need not file a further application in order to obtain the remission of taxes unpaid on the property designated in such application or notice. In all other cases application for remission of unpaid taxes shall be filed in the form prescribed by the tax commissioner, on or before December 31, 1947.

(b) **Applications for refunds.** In every instance in which a refund or credit is sought on account of taxes authorized to be remitted by section 1 of this Act, which have been paid, application therefor shall be filed with the tax commissioner on or before December 31, 1947, whether or not an application or notice heretofore has been filed.

Section 3. **Refunds, how made.** Any amount of taxes authorized to be remitted by section 1 of this Act, which has been paid, shall be refunded upon proper application out of real or personal property tax collections, as the case may be, of the county concerned, or the refundable amount may be credited against real or personal property taxes, as the case may be, of the proper county, due from the applicant.

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 117, Act 135.**

Series A-90: ACT 175

An Act to Amend Section 5561 of the Revised Laws of Hawaii 1945, Relating to Reciprocal Provisions in Inheritance Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5561** of the Revised Laws of Hawaii 1945, is hereby amended by amending the last sentence of the first paragraph of said section to read as follows:

"For the purposes of this section the District of Columbia and Puerto Rico shall be considered territories of the United States."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 297, Act 175.**

Series A-91: ACT 33

An Act to Amend Section 5710 of the Revised Laws of Hawaii 1945, Relating to Number Plates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5710 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 5710. Character of number plates; purchase.** The number plates hereinabove referred to and as hereinafter described shall be uniform throughout the Territory and shall be used on all vehicles upon which a tax is paid pursuant to this subtitle. All such number plates shall bear the word 'Hawaii', shall be of different color or shade each year with a distinct contrast between the color of the plates and the numerals and letters thereon, and shall be of such

size, shape and color, and with such arrangement of letters and numerals as may, subject to the provisions of this subtitle, be determined by the secretary of the Territory. The numerals on all such number plates shall be not less than four inches in height and the strokes thereof not less than one-half inch in width, except in the case of motorcycles, in which case such numerals shall be not less than one inch in height and the strokes thereof not less than one-eighth inch in width. The letters and numerals to be used in each county shall be assigned by the secretary. On or before October 1 the treasurer of each county shall certify to the secretary the number of plates required for use therein. The secretary shall contract on behalf of all of said counties for the purchase of the required plates. The board of supervisors of each county shall appropriate and cause to be paid over to the party with whom the secretary shall contract, or to the secretary as he may direct, such sum or sums as the secretary shall determine to be the county's proportionate expense of such contract and the charges connected therewith. Such contract shall be made by the secretary as the agent of the several counties, and the proportionate liability of each county shall be stated in the contract. Notwithstanding any other provision of law, such contract shall constitute a valid obligation of each county for its proportionate share." [R. L. 1935, pt. of s. 2157; am. L. 1937, c. 214, s. 1, subs. 6; R. L. 1945, s. 5710; am. L. 1947, c. 33, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1947.) **S.B. 50, Act 33.**

Title 15: TREASURY.

Chapter 110. DEPARTMENT OF.

Series A-92: ACT 244

An Act Relating to the Short Term Investment of Territorial Moneys.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5802.01 of the Revised Laws of Hawaii 1945, as enacted by Act 59 (Ser. A-113), Session Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 5802.01. Short term investment of territorial moneys.** The treasurer is authorized and empowered to invest, with the approval of the governor, any general, special, loan or revolving fund moneys of the Territory which in the treasurer's judgment are in excess of the

amounts necessary for meeting the immediate requirements of the said respective funds, and where in his judgment such action will not impede or hamper the necessary financial operations of the Territory, in any security authorized by section 5927 for the investment of sinking fund moneys, **provided** the said security is due to mature not more than five years from the date of investment. Income derived therefrom shall be a realization of the general fund." [L. 1945, c. 59, s. 1; am. L. 1947, c. 244, s. 1.]

Section 2. This Act shall take effect July 1, 1947.

(Approved May 26, 1947.) **S.B. 526, Act 244.**

Note: § **5803** was amended L. 1945, c. 59 (A-113).

Series A-93: ACT 167

An Act Authorizing Temporary Transfers and Loans of Excess Territorial Moneys.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5812** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the last paragraph thereof (the said paragraph having been enacted by Act 133, Series A-114, Session Laws of Hawaii 1945) to read as follows:

"When there are moneys in the general, special or revolving funds of the Territory which in the treasurer's judgment are in excess of the amounts necessary for the immediate territorial requirements, the treasurer is authorized to make temporary loans therefrom to the employees' retirement system, the board of water supply of the city and county of Honolulu, the Hawaii housing authority, or to any territorial or county department, board, commission, officer, authority or agency authorized under the laws of the Territory to issue bonds, or to the several counties, if in his judgment such action will not impede or hamper the necessary financial operations of the Territory. Such loans to any county shall not at any time exceed the amount of tax moneys which the treasurer estimates will be paid by him to the said county during the balance of the calendar year, and such loans to other organizations shall not at any time exceed the amount of moneys which the treasurer estimates the organization will be in receipt of, from bond funds or other sources, during the twelve months following the loan. The said loans shall be without interest. Loans to counties shall be made only upon the request of the county treasurer approved by the county board of supervisors. All loans shall be repaid upon the demand

of the treasurer. In the absence of any demand, loans to counties shall be repaid during the calendar year in which they are granted, pursuant to the following procedure: from time to time as tax moneys which are payable to the borrowing county are deposited in the treasury, the treasurer shall retain therefrom sufficient to cover the amounts of all loans, and shall reimburse the general, special or revolving funds therewith. Likewise, when there are such excess moneys, the treasurer is authorized to make temporary transfers of same to the loan fund for the temporary uses thereof. The total of such transfers to the loan fund shall not exceed the sum of unissued general obligation bonds of the Territory as authorized by the Legislature. The general, special or revolving funds shall be reimbursed from the proceeds of bond sales upon the eventual issuance and sale of such bonds." [L. 1907, c. 66, s. 1; R. L. 1945, s. 5812; am. L. 1945, c. 133, s. 1; am. L. 1947, c. 167, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 19, 1947.) **H.B. 919, Act 167.**

Note: The first part of § 5812, to which above amendment is added, reads:

Sec. 5812. Purchase of county bonds. The treasurer, with the approval of the governor, is authorized to purchase bonds issued by the several counties in conformity with law, or to loan money to the counties on the security of such bonds out of any funds that may be available for such purposes, or to accept such bonds as payment for property sold to the counties, whenever they may deem it for the public interest so to do.

Note: § 5851 was amended L. 1945, c. 119 (A-115); § 5854 was amended L. 1945, c. 119 (A-115); § 5873 was added L. 1945, c. 89 (A-116).

Series A-94: ACT 245

An Act Relating to Public Liability and Property Damage Insurance on Territorial Vehicles.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 114 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By amending the title of said chapter to read:

"CHAPTER 114. TERRITORIAL INSURANCE FUND; INSURANCE ON PUBLIC VEHICLES."

(2) By adding a new section thereto to read as follows:

"Sec. 5874. Insurance on public vehicles. Vehicles owned by the Territory or in the custody and use of any department may be insured against public liability, in limits not to

exceed $50,000/100,000, and against property damage in limits not to exceed $5,000. The insurance may be effected by the department or other organization having custody or control of the vehicle, or, with the acquiescence of the head of the said department or other organization, the vehicle may be insured under a fleet liability policy entered into by the Territory. Any such territorial fleet liability policy shall be administered by and be subject to the control of the insurance commissioner." [L. 1947, c. 245, s. 1.]

Section 2. Nothing in this Act shall be construed to indicate that the long existing administrative practice of insuring public vehicles is in violation of law, it being the purpose of this Act to codify and clarify the law on the subject.

Section 3. This Act shall take effect upon approval.

(Approved May 26, 1947.) **S.B. 524, Act 245.**

Chapter 115. TERRITORIAL BOND ISSUES.

Series A-95: ACT 218

An Act Amending the Laws Relating to the Bonds of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Parts I and II of Chapter 115 of the Revised Laws of Hawaii 1945, as amended, are hereby further amended to read as follows:

"PART I: GENERAL AND REFUNDING BONDS.

Sec. 5901. Authorization to issue; amount. The treasurer of the Territory is authorized and empowered, with the approval of the governor, to issue from time to time general obligation bonds of the Territory, with interest coupons attached thereto, to an amount not exceeding the limits provided in that act of Congress of the United States, approved April 30, 1900, entitled: 'An Act to provide a government for the Territory of Hawaii', and any amendments thereto in effect at the date of issue of such bonds, the principal and interest to be paid dollar for dollar in any coin or currency of the United States which at the time of payment is legal tender for public and private debts. Such bonds shall be issued in the manner, upon the terms and for the purposes as are in this subtitle stated. Such bonds shall only be issued pursuant to an act or acts of the legislature defining and expressing the purposes for which the same are to be issued. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5902. Proceeds for public improvements exclusively. The proceeds of bonds so issued shall be exclusively devoted to public improvement purposes, as defined and expressed in acts of the legislature providing for public improvements and authorizing the issuance of bonds, and they shall be devoted to said purposes in such order as the governor may determine. The governor may allocate the proceeds of any issue to a particular public improvement, or to several public improvements, and he may amend his allocations from time to time. The proceeds of any issue may be allocated to various public improvements irrespective of whether or not the said improvements have all been provided for by the same legislative act, and an allocation may be made of only a portion of the proceeds authorized for a particular public improvement. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5903. Refunding bonds authorized. For the purpose of refunding the present and future bonded indebtedness of the Territory or any part or parts thereof, the treasurer is authorized and empowered, with the approval of the governor, to issue from time to time refunding bonds of the Territory, in an amount or amounts not exceeding at par value the bonded indebtedness to be thereby refunded, the principal and interest of such refunding bonds to be paid dollar for dollar, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5904. Bonds which may be refunded. The bonds which may be refunded under the provisions of this part shall include among others any bonds which are at the time matured or about to mature or which are payable or redeemable at the option of the Territory or which the Territory otherwise then has the right to call, pay, or redeem, or any bonds of the Territory which the holders may consent may be paid or refunded, even though such bonds be not matured or callable or redeemable. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5905. Presidential approval. All bonds issued under the authority of this subtitle shall be approved by the President of the United States. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5906. Bonds tax exempt; paramount charge on revenues. All bonds issued under this subtitle and the income therefrom shall be exempt from all territorial, county and municipal taxation. The payment of the principal and interest of such bonds shall constitute a paramount charge upon

the consolidated revenues of the Territory. The public faith and credit of the Territory shall be and they are hereby pledged to the punctual payment of the principal and interest thereof as the same shall become due, and sufficient revenues shall be raised or provided from time to time for that purpose. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5907. Interest; maturity. All bonds issued under authority of this subtitle shall bear interest, payable semiannually, at a rate of not more than five per centum per annum. If bonds have been presented for bid without a specified rate of interest, to be sold to the bidder or bidders offering the lowest rate of interest, no bid shall be accepted which calls for a rate of interest in excess of five per centum per annum. All such bonds shall mature and be payable at such time or times from the date of issue thereof as will comply with the provisions of that said act of Congress of the United States, approved April 30, 1900, entitled: 'An Act to provide a government for the Territory of Hawaii', and any amendments thereto in effect at the date of issue of such bonds. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5908. Denominations; time, place, payment; sale. The treasurer of the Territory shall determine the denominations of such bonds as are issued under the authority of this subtitle, and the place in which the principal and interest of such bonds, or any of them, shall be payable, and the method of their redemption. He may make such arrangements as may be necessary or proper for the sale of each issue or any part thereof. The bonds may be sold at private sale to the United States, or any agency, instrumentality or corporation thereof, or to the Employees' Retirement System of the Territory of Hawaii or to any political subdivision or other governmental organization of the Territory of Hawaii. In the discretion of the governor and treasurer, refunding bonds may be exchanged at not less than their par value for an equal amount of the bonds to be refunded under the provisions of this subtitle at not more than their par value, or refunding bonds may be sold as provided by this subtitle and the proceeds therefrom applied solely to the payment of the bonds to be refunded under the provisions of this subtitle. All bonds so refunded and redeemed by the issue and sale or issue and exchange of refunding bonds shall be cancelled. Unless so sold at private sale, or exchanged, such arrangements shall provide for the sale of the bonds by the government itself, by public advertise-

ment for tenders published at least once and at least five days prior to such sale in a newspaper circulating in the Territory of Hawaii and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco. The treasurer may, with the approval of the governor, accept any bid without public advertisement for tenders, provided such bid shall be even with or above the figure of the last sale made in pursuance of public advertisement for tenders, or, if the bonds are sold on an interest basis, provided such bid shall be at an interest rate even with or below the effective interest rate of the last sale made in pursuance of public advertisement for tenders. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the treasurer may decide upon may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5909. Premiums to Special Fund. The premiums received from the sale of any bond issue shall be deposited in a special fund and shall be used for the payment of interest on the bonds of such issue. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5910. Form and execution of bonds. Bonds issued under the provisions of this subtitle shall be in such form as the treasurer may determine. They may be registered, coupon, or registered as to principal only. They shall be lithographed or engraved, and shall be signed by the treasurer of the Territory, and by the auditor of the Territory, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the treasury department of the Territory. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer of the Territory. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5911. Same, signatures. When bonds of the Territory of Hawaii have been or shall hereafter be prepared and signed by the treasurer of the Territory and by the auditor of the Territory in office at the time of such signing, the signatures of such treasurer and auditor shall be valid and sufficient for all purposes, and shall have the same effect as if the persons so officially signing such bonds had remained in office until the delivery of the same to the purchasers although the term of office of such persons or either of them may have expired or they may otherwise have ceased to be such officers before such delivery. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5912. Bonds negotiable; incontestable. This subtitle, without reference to any other law, shall be full authority to issue, exchange or sell bonds of the Territory, and such bonds and all interim receipts or certificates shall have all the qualities of negotiable paper under the law merchant. Such bonds shall not be invalid for any irregularity or defect in the proceedings for the issue, sale or exchange thereof. Such bonds shall contain a recital that they are issued pursuant to the laws of the Territory of Hawaii, which recital shall be conclusive evidence of their validity and the regularity of their issuance. No proceedings in respect of the issuance of any such bonds shall be necessary except such proceedings as are required by this subtitle. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5913. Payment, principal and interest. When bonds authorized by this subtitle and the several interest amounts mature, it shall be the duty of the treasurer to pay same. But if the bonds or interest are made payable elsewhere than at the office of the treasurer he shall provide sufficient funds at the designated place or places of payment to meet and pay all such obligations at maturity in accordance with the terms thereof.

There is hereby appropriated out of the consolidated revenues of the Territory all amounts necessary for the payment from time to time of the principal of said bonds and the several interest amounts as they mature, and this appropriation shall be a paramount appropriation upon the consolidated revenues of the Territory. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5914. Fiscal agents. The treasurer is authorized and empowered to appoint, with the approval of the governor, such fiscal agents as may be necessary and expedient to facilitate the sale, purchase, registration, transfer and redemption of the bonds of the Territory and the payment of the principal and interest thereon. The treasurer may authorize and empower such fiscal agents, for and on behalf of the Territory, to receive and receipt for moneys realized from the sale of such bonds and to pay out moneys for the redemption or purchase thereof and for the payment of interest thereon, and to receive receipts for all moneys so paid out. Moneys received by the fiscal agents from the sale of bonds on behalf of the Territory shall not, for a period of fifteen days after the sale of bonds, be considered as deposits within the meaning of chapter 113, and moneys placed with the fiscal agents for the purpose of purchase or redemption of bonds and coupons shall not be considered

as deposits within the meaning of chapter 113. All appointments made under this section may be revoked by the treasurer at any time. [L. 1947, c. 218, pt. of s. 1.]

PART II. DESTROYED OR DEFACED BONDS; LOST COUPONS.

Sec. 5915. Duplicates. Whenever it appears to the treasurer of the Territory by clear proof satisfactory to him that any interest bearing bond of the Territory has, without bad faith upon the part of the owner, been destroyed, wholly or in part, or so defaced as to impair its value to the owner, and such bond is identified by number and description, the treasurer of the Territory shall, under such conditions and upon such security, if any, as he may prescribe, cause to be issued a duplicate thereof, with remaining unpaid coupons attached and so marked as to show the original number of the bond destroyed or defaced and the date thereof.

All duplicate bonds issued in place of bonds destroyed or defaced pursuant to the provisions hereof shall be lithographed or steel engraved, and shall be signed by the treasurer of the Territory, and by the auditor of the Territory, and be sealed with the seal of the office of the treasurer. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer of the Territory.

But when such destroyed or defaced bond appears to have been of such a class or series as has been called or will be called in for redemption or will mature within a period of one year following the date of application for a duplicate bond, instead of issuing a duplicate bond therefor, the treasurer of the Territory may, under such conditions and upon such security, if any, as he may prescribe, pay such bond at its call date with interest if it is already called for redemption or if it is to be called for redemption, or if it is to be called for redemption or will mature within the period of one year, issue a transferable certificate of ownership to the applicant and pay on such certificate the call price of the bond represented thereby together with interest called for by the destroyed or defaced bond on the date of its call or its original maturity upon surrender of the certificate of ownership. All such transferable certificates of ownership which may be issued pursuant to the terms hereof shall be in such form as the treasurer of the Territory may prescribe and shall be signed by the treasurer of the Territory and by the auditor of the Territory and sealed with the seal of the office of the treasurer.

All expenses necessary for the providing of any duplicate bond or certificate of ownership shall be borne by the owner thereof. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5916. Payment to be made. Whenever any interest coupons on any bonds issued by the Territory shall be lost, destroyed or stolen, any person being the legal holder of such coupons may secure payment of the same, notwithstanding such loss, destruction or theft, in the manner provided in section 5917. This subtitle shall apply also to interest coupons lost, destroyed or stolen prior to May 1, 1929. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5917. Method of payment. Such person shall make written application, under oath, in such form as the treasurer of the Territory shall prescribe, stating facts definitely identifying such coupons and showing the loss, destruction or theft of the same, and the ownership of the same by the person applying for such payment, and shall present such further evidence as the treasurer may reasonably require to establish the identity of such coupons, their loss, destruction or theft, and the ownership of the same by such applicant.

The treasurer, if he is satisfied that such person is the legal holder of such coupons, and that the same have been lost, destroyed or stolen, shall thereupon, except as hereinafter provided, pay to such applicant the amount of such lost, destroyed or stolen coupons, such payments to be made out of the general fund of the Territory by warrant of the auditor of the Territory; **provided,** however, that no such payment shall be made until and unless (1) at least six months shall have elapsed after the date of application for the payment of such coupons, alleged to have been lost, destroyed or stolen, during which time such coupons shall not have been presented and paid to a holder in due course thereof; and (2) the applicant for such payment shall have executed and delivered to the treasurer a legal and sufficient bond in the amount of twice the aggregate sum called for by such lost, destroyed or stolen coupons, in such form and with such sufficient surety or sureties as shall be satisfactory to the treasurer, conditioned to indemnify and save harmless the Territory from any loss on account of such coupons so claimed to have been lost, destroyed or stolen. [L. 1947, c. 218, pt. of s. 1.]

Sec. 5918. Disputed ownership. In the event that there shall be two or more claimants claiming adversely, each to the other or others, to be the holder in due course of the coupons alleged to have been lost, destroyed or stolen, the treasurer may, in his discretion, require such claimants, if

not within the Territory, to appoint agents within the Territory to accept service of process, or otherwise to submit to the jurisdiction of the courts of the Territory, and may bring suit on behalf of the Territory in the circuit court of the first judicial circuit, against such claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of such coupons. Jurisdiction is hereby conferred upon the court to hear and determine, without a jury, such suits and to determine whether any of the claimants is entitled to such payment, and, if so, which of the claimants is so entitled; **provided,** however, that such determination shall not dispense with the conditions prescribed by section 5917 requiring six months to elapse, and the giving of a bond, before the payment of such claims. The costs of the suit shall be borne by the claimants, and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court shall be appealable to the supreme court in the same manner and subject to the same conditions and incidents as appeals in equity." [L. 1947, c. 218, pt. of s. 1.]

Section 2. The validity, legal effect or obligation of any bond of the Territory outstanding upon the effective date of this Act shall not be affected by this Act, or by any amendment made herein.

Section 3. This Act shall take effect upon approval.

(Approved May 22, 1947.) **H.B. 920, Act 218.**

Series A-96: ACT 243

An Act Authorizing the Use of Sinking Fund Money, Which Is in Excess of All Eventual Sinking Fund Requirements, for the Payment of Interest and Principal Charges Upon Those General Obligation Bonds Which Are Not a Charge Upon the Sinking Fund, and Providing for the Lapse into the General Fund of the Territory of Moneys Which Are Otherwise Appropriated for the Payment of Such Principal and Interest Charges so Paid.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5923** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof the following: "Whenever the value of the assets held in the sinking fund for the redemption of term bonds and refunding serial bonds shall exceed the par value of all the outstanding term and refunding bonds of the Territory, money in the sinking fund to the extent of such excess may in the treasurer's judgment be used to pay the interest or principal charges on any of the outstanding general obligation bonds of the Territory which are not a charge upon the sinking fund. For the purposes hereof, the assets in the sinking fund shall be valued at par value or market value whichever is lower."

Note: § 5923 was affected by L. 1945, c. 8 (E-220) and amended by L. 1947, c. 107 (A-68), s. 7, ante, and this c. 243 (A-96). § 5924 was amended L. 1945, c. 82 (A-87); § 5927 was amended L. 1945, c. 42 (A-117).

[Sec 5930.01.] Section 2. [**Lapsing of unneeded appropriations.**] Whenever money in the sinking fund is used for the payment of interest or principal charges on any of the outstanding general obligation bonds of the Territory which are not a charge upon the sinking fund, and moneys have already been appropriated for the payment of such principal or interest charges, the said moneys which have been so appropriated shall lapse into the general fund of the Territory. [L. 1947, c. 243, s. 2.]

Section 3. This Act shall take effect July 1, 1947.

(Approved May 26, 1947.) S.B. 525, Act 243.

Series A-97: ACT 74

An Act Relating to Revenue Bonds of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 115 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new part thereto to be numbered Part IV, and to read as follows:

"PART IV. REVENUE BONDS.

"Sec. 5931. Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

The term 'undertaking' shall mean any public works and properties of the Territory, or combination thereof, designated by the legislature as such in an act providing for the issuance of revenue bonds.

The term 'department' shall mean any territorial department, board, commission, officer, authority or agency (other than a 'municipality' defined by section 6081), now or hereafter created, which is charged by law with the administration of an undertaking.

The term 'governing body' shall mean any board, commission, or other body consisting of more than one person, having charge of a department.

The term 'department head' shall mean any officer having charge of a department for which there is no 'governing body'. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5932. Declaration of policy. It is hereby declared to be the policy of the Territory that any department acquiring, purchasing, constructing, reconstructing, improving, bettering or extending an undertaking pursuant to this chapter, shall manage such undertaking in the most efficient manner consistent with sound economy and public advantage, and consistent with the protection of bondholders. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5933. Additional powers of departments. In addition to the powers which it may now have, any department shall have power under this part: (a) to construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any undertaking within its jurisdiction, and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land or water rights in connection therewith, (b) to operate and maintain any undertaking and furnish the services, facilities and commodities thereof for its own

use and for the use of public and private consumers, (c) to issue revenue bonds of the Territory, in such sums only as may be authorized by specific act or acts of the legislature of the Territory, to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking, (d) to prescribe and collect rates, fees and charges for the services, facilities and commodities furnished by such undertaking, and (e) to pledge to the punctual payment of said bonds and interest thereon an amount of the revenues of such undertaking (including improvements, betterments, or extensions thereto thereafter constructed or acquired) or of any part of such undertaking, sufficient to pay said bonds and interest as the same shall become due and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of such revenue. The department in determining such cost may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5934. Authorization of undertaking; form and contents of bonds. The issuance of revenue bonds for the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking shall be authorized (a) by a resolution or resolutions of the governing body of the department, which may be adopted at the same meeting at which the same are introduced by a majority of all the members of the governing body of the department then in office, and shall take effect immediately upon filing therof with the treasurer of the Territory, or (b) by a certificate or certificates of a department head, which shall take effect immediately upon filing thereof with the treasurer of the Territory. Said bonds shall bear interest at such rate or rates not exceeding six per centum per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or certificate, subsequent resolutions or certificates, may provide. Said bonds may be

sold at private sale to the United States, or any agency, instrumentality or corporation thereof, or to the employees' retirement system of the Territory of Hawaii, or to any political subdivision of the Territory. Unless so sold at private sale, said bonds shall be sold at public sale after notice of such sale published once at least five days prior to such sale in a newspaper circulating in the Territory and in a financial newspaper published in any of the cities of New York, Chicago or San Francisco. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the department may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of chapter 173, the negotiable instruments law. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5935. Covenants in resolution or certificate authorizing issuance of bonds. Any resolution or resolutions, certificate or certificates authorizing the issuance of bonds under this part may contain covenants as to (a) the purpose or purposes to which the proceeds of sale of said bonds shall be applied and the use and disposition thereof; (b) the use and disposition of the revenue of the undertaking for which said bonds are to be issued, including the creation and maintenance of reserves; (c) the issuance of other or additional bonds payable from the revenue of said undertaking; (d) the operation and maintenance of such undertaking; (e) the insurance to be carried thereon and the use and disposition of insurance moneys, said insurance being hereby authorized to be carried, and no such undertaking shall have recourse to the territorial insurance fund for the repair or replacement of any property in the undertaking, or for payment of claims under chapter 77 (relating to workmen's compensation); (f) books of account and the inspection and audit thereof; and (g) the terms and conditions upon which the holders of said bonds or any proportion of them or any trustee therefor shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of said undertaking, operate and maintain the same, prescribe rates, fees, or charges, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the department itself might do. The provisions of this part and any such resolution or resolutions, certifi-

cate or certificates, shall be a contract with the holder or holders of said bonds; and the duties of the department, its governing body and department head, under this part, and any such resolution or resolutions, certificate or certificates, shall be enforceable by any bondholder, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5936. Validity of bonds. Said bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the Territory or of the department. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the undertaking for which said bonds are issued. The resolution or certificate authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5937. Lien of bonds. Unless otherwise provided in the resolution or certificate, all bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have a prior and paramount lien on the revenue of the undertaking, for which said bonds have been issued, over and ahead of all bonds of any issue payable from said revenue which may be subsequently issued and over and ahead of any claims or obligations of any nature against said revenue subsequently arising or subsequently incurred. All bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, of sale, of execution, or of delivery, by a lien on said revenue in accordance with the provisions of this chapter and the resolution or resolutions, certificate or certificates, authorizing said bonds. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5938. Bonds not a general obligation of Territory. No holder or holders of any bonds issued under this part shall ever have the right to compel any exercise of taxing power of the Territory of Hawaii to pay said bonds or the interest thereon. Each bond issued under this part shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment

thereof, and that said bond does not constitute a debt of the Territory of Hawaii within the meaning of any limitation of law. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5939. Undertakings to be self-supporting. The department issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such undertaking, and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5940. Use of revenue of undertaking. Any department issuing bonds pursuant to this part for the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking shall have the right to appropriate, apply or expend the revenue of such undertaking for the following purposes and in the following order of priority; (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor; (c) for such purposes, within the jurisdiction, powers, duties, and functions of the department, including the creation and maintenance of reserves, as shall have been covenanted in any resolution or resolutions, certificate or certificates, of the department providing for the issuance of revenue bonds; (d) to reimburse the general fund of the Territory for all bond requirements for general obligation bonds which are or shall have been issued for the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of the properties which are comprised in the undertaking (excluding, however, bonds the proceeds of which, were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties), or to refund any of such improvement bonds, except in so far as such obligation of reimbursement has been or shall be cancelled by the legislature, such bond requirements being the interest on term and serial bonds, sinking fund for term bonds, and principal

of serial bonds maturing the following year; (e) to provide a reserve for betterments to such undertaking, and (f) to provide such special reserve funds and other special funds as are or may be created by law. Unless and until adequate provision has been made for the foregoing purposes, the Territory shall not have the right to transfer any part of the revenue of such undertaking to its general funds, or apply the same to other purposes. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5941. Undertaking and bonds exempt from taxation. So long as the Territory shall own any undertaking, the property and revenue of such undertaking shall be exempt from all territorial, county and municipal taxation. Bonds and the income therefrom issued pursuant to this part shall be exempt from all territorial, county and municipal taxation except inheritance, transfer and estate taxes. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5942. Consent of governmental agencies. It shall not be necessary for any department proceeding under this part to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission or other like instrumentality of the Territory or its political subdivisions in order to acquire, construct, purchase, reconstruct, improve, better, extend, maintain and operate an undertaking. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5943. Construction. The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. The undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this part for said purpose, notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking, and without regard to the requirements, restrictions, limitations or other provisions contained in any other law. In so far as the provisions of this part are inconsistent with the provisions of any other law, the provisions of this part shall be controlling. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5944. Execution of bonds. Bonds issued pursuant to this part shall be executed by the head of the department, sealed with the seal of the department, and countersigned by the auditor of the Territory. In the case of a department having a governing body, the member thereof who is the chairman or other titular head shall, for the purposes hereof, be the head of the department. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5945. Treasurer's duties. It shall be the duty of the treasurer of the Territory, when requested by the department, to render full and complete assistance to any department in the preparation and sale of bonds issued pursuant to this part. The treasurer shall be the fiscal agent of the department for the payment of all principal and interest, and for the transfer of bonds. The provisions of sections 5803 and 5921, relating to the appointment by the treasurer of other fiscal agents and transfer agents, and to the status of funds held by such fiscal agents, to the extent that they may appropriately be applied, shall be deemed incorporated in this part.

The treasurer shall cause to be set up in the treasury of the Territory suitable accounts for the deposit of all revenues of the undertaking, and for the payment of all bonds and the interest thereon and for all other payments provided or required by this part, and for the holding of all reserves created under this part. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5946. Investment of reserves. The treasurer, with the approval of the department, is authorized and empowered to invest any money held as reserves, which in the department's judgment are in excess of the amounts necessary for the meeting of immediate requirements, in bonds, notes or other obligations of the United States, or of the Territory of Hawaii, or of any political or municipal corporation or subdivision of the Territory. Income derived therefrom shall be treated as revenue of the undertaking; expenses of purchase, safekeeping, sale and redemption, and all other expenses attributable to such investments shall be proper expenses of the undertaking. Securities so purchased shall be considered as being deposited in the treasurer's custody or control by the department. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5947. Transfers to department. When there are moneys in the general, special or revolving funds of the Territory which in the treasurer's judgment are in excess of the amounts necessary for the immediate territorial requirements, the treasurer is authorized to make temporary transfers of such moneys to the department for purposes for which revenue bonds may be issued, if in his judgment such action will not impede or hamper the necessary financial operations of the Territory. The total of temporary transfers for any undertaking shall not exceed the sum of the unissued revenue bonds authorized therefor by the legislature. The general, special, or revolving funds shall be reimbursed from the proceeds of sale of revenue bonds upon

the eventual issuance and sale of such bonds. The sale of revenue bonds shall not be deferred beyond the date fixed by the treasurer for such reimbursement.

Likewise, the treasurer may make temporary transfers from the said funds to any account which has been set up in the treasury for the payment of revenue bonds, or the interest thereon, or to any other account which has been set up in the treasury for the making of such other payments as are provided or required by this part. Any such transfer may be made when the account is first opened and prior to any payment therefrom, or prior to the issuance of revenue bonds for the undertaking, or at any time when the account may be temporarily depleted. No such transfer shall be made unless, in the treasurer's judgment, the account to which the moneys are transferred will be able to effect reimbursement on or before the date fixed by the treasurer for such reimbursement.

No interest shall be charged upon any transfer so made, and transfers shall be made only upon the request of the department. [L. 1947, c. 74, pt. of s. 1.]

Sec. 5948. General laws applicable. The provisions of sections 5909-5912 inclusive, relating to destroyed or defaced bonds, and to lost, destroyed or stolen coupons, to the extent that they are applicable, shall apply to bonds issued pursuant to this part." [L. 1947, c. 74, pt. of s. 1.]

[**Sec. 5949.**] Section 2. **Revenue bonds legal investments.** All public officers and bodies of the Territory, all political subdivisions, all insurance companies and associations, all banks, savings banks and savings institutions, including building or savings and loan associations, all trust companies, all executors, administrators, guardians, trustees, and all other persons and fiduciaries in the Territory who are regulated by law as to the character of their investment, may legally invest funds within their control and available for investment in revenue bonds of the Territory, it being the purpose of this section to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any such funds owned or controlled by them, including (without prejudice to the generality of the foregoing), sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any revenue bonds of the Territory. [L. 1947, c. 74, s. 2.]

Section 3. **Section 6081** of the Revised Laws of Hawaii 1945, is hereby amended by amending the third paragraph thereof to read as follows:

"The term 'municipality' shall embrace the city and county of Honolulu and the other counties of the Territory, and the board of water supply of the city and county of Honolulu."

Section 4. Excision of unconstitutional or ineffective parts of Act. It is hereby declared that the sections, clauses, sentences and parts of this Act are severable, are not matters of mutual essential inducement, and any of them may be exscinded by any court of competent jurisdiction if this Act would otherwise be unconstitutional or ineffective; it is the intention hereof to confer upon every department the whole or any part of the powers in this Act provided for, and if any one or more sections, clauses, sentences and parts of this Act shall for any reason be questioned in any court of competent jurisdiction, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this Act in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 5. This Act shall take effect upon approval.

(Approved May 12, 1947.) **S.B. 339, Act 74.**
Note: As so amended, § 6081 reads:

Sec. 6081. Definitions. Whenever used in this chapter, unless a different meaning clearly appears from the context:

The term "undertaking" shall mean any one or combination of two or more of the following: water, sewerage, gas or electric, heat, light or power works, plants and systems, together with all parts thereof and appurtenances thereto, including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment and disposal works and generating plants. The term "undertaking" shall also mean the Koolau Tunnel Project.

The term "municipality" shall embrace the city and county of Honolulu and the other counties of the Territory, and the board of water supply of the city and county of Honolulu.

The term "government body" shall include councils, bodies and boards, by whatsoever names they may be known, having charge of the finances of a municipality. [L. 1935, c. 174, s. 2; R. L. 1945, s. 6081; am. L. 1947, c. 74, s. 3; am. L. 1947, c. 95, s. 5.]

PART B

COUNTY GOVERNMENT

Title 16: GENERAL GOVERNMENTAL PROVISIONS COMMON TO ALL COUNTIES.

Chapter 116. ADMINISTRATIVE, GENERAL.

Series B-98: ACT 146

An Act to Amend Chapter 116 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Destruction of Vouchers and Reports by Departmental Heads and Auditors of the County Government.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 116 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by inserting two new sections to be numbered 6004.01 and 6004.02 and to read as follows:

"**Sec. 6004.01. Destruction of vouchers, etc.** At the end of each fiscal year, the auditors of each of the counties and of the city and county of Honolulu, with the approval of the committee on finance and public expenditures and the legal officers of the respective counties and the controller of the city and county of Honolulu, may destroy all vouchers, documents and other records or papers on file with the auditor or deputy in his department, for a period of more than 10 years (exclusive of permanent records), which in their opinion are no longer of any use or value. [L. 1947, c. 146, pt. of s. 1.]

Sec. 6004.02. Destruction of documents by departmental heads. Any proper county and city and county department, board or commission head or officer may upon request be ordered and directed to destroy all vouchers, documents and other records or papers where such request is accompanied by a certificate from the committee composed of the committee on finance and public expenditures, auditor, controller, and the legal officer, that all such vouchers, documents and other records or papers have been on file or have been kept for a period of more than 10 years (exclusive of permanent records), which in their opinion are no longer of use or value." [L. 1947, c. 146, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval. (Approved May 17, 1947.) **H.B. 895, Act 146.**

Note: § **6007** was amended L. 1945, c. 83 (A-111); § **6008.01-.02,** added L. 1945, c. 43 (B-118); § **6009.01** was added L. 1945, c. 133 (A-114); § **6017** was amended L. 1945, c. 162 (B-119). § **6081,** amended **L. 1947,** c. 74 (A-97) ante, and c. 95 (F-211), post. See note at end of c. 74 (A-97) ante.

Chapter 118. BONDS: REVENUE.*

Series B-99: ACT 10

An Act Amending Chapter 118, Revised Laws of Hawaii 1945, as Amended, Relating to Revenue Bonds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 118, Revised Laws of Hawaii 1945, as amended, is hereby amended by amending section 6095 thereof to read as follows:

"**Sec. 6095. Termination of power to issue bonds.** Except in pursuance to any contract or agreement theretofore entered into by any municipality, no municipality shall borrow any money or deliver any bonds pursuant to this chapter to the purchasers thereof after June 30, 1949." [L. 1935, c. 174, s. 17; R. L. 1945, s. 6095; am. L. 1945, c. 33, s. 1; am. L. 1947, c. 10, s. 1.]

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 23, 1947.) **H.B. 78, Act 10.**

* Note: See index, topic **"BONDS"**.

Chapter 120. HIGHWAYS, SIDEWALKS, etc.

Series B-100: ACT 142

An Act to Amend Chapter 120 of the Revised Laws of Hawaii 1945, as Amended, Relating to Highways, Sidewalks, Parks; Use of Streets, etc.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 120 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending section 6111 thereof to read as follows:

"**Sec. 6111. Public highways defined, etc.** All roads, alleys, streets, ways, lanes, trails and bridges in the Territory, opened, laid out, or built by the Territory or any political subdivision thereof, are declared to be public highways. Public highways are of two types: (1) territorial or federal-aid highways, which are all those under the jurisdiction of the territorial highway engineer or the superintendent of public works pursuant to chapter 89 or any other law; and (2) county highways, which are all

other public highways. All roads, alleys, streets, ways, lanes, trails and bridges in the Territory, opened, laid out, or built by private parties and dedicated or surrendered to the public use, are declared to be public highways. Such dedication shall be by deed of conveyance naming the Territory as grantee, which, in the case of a county highway, shall be delivered to the city and county or county and accepted by its board of supervisors. Such surrender shall be deemed to have taken place if no act of ownership by the owner of any such road, alley, street, way, lane, trail or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the board of supervisors of the city and county or county has, thereafter, by a resolution, adopted the same as a county highway. All county highways once established shall continue until vacated, closed, abandoned or discontinued by a resolution of the board of supervisors of the city and county or county wherein such county highway lies." [L. 1892, c. 47, s. 2; R. L. 1945, s. 6111; am. L. 1947, c. 142, pt. of s. 1.]

(b) By amending section 6113 thereof to read as follows:

"**Sec. 6113. In charge of the supervisors.** The several boards of supervisors or other governing bodies of the several political subdivisions of the Territory shall have the general supervision, charge and control of, and the duty to maintain and repair, all county highways and shall have the power to determine the terms under which irrigation or drainage ditches, flumes, railroads, including plantation railroads and similar structures, telephone, electric light and power lines, and pipes and other conduits may be maintained upon, under, over and across the same, and the boards or other governing bodies may make all regulations needful for the public convenience and safety in all cases where permission has been or may be granted to maintain any such ditches, railroads, pipes or other structures across, under, over and upon all county highways." [L. 1913, c. 107, pt. of s. 1; am. L. 1917, c. 109, s. 1; R. L. 1945, s. 6113; am. L. 1947, c. 142, pt. of s. 1.]

(c) By repealing **sections 6116, 6117, 6118, 6119** and **6120** thereof.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **H.B. 90, Act 142.**

Series B-101: ACT 88

An Act Requiring the Several Counties to Furnish Tools and Equipment for Workmen Engaged in Maintenance of Public Roads and Highways in Condition and Repair.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6113.01.] Section 1. [**Workers' tools, etc., for maintenance, to be furnished by counties.**] Where in the maintenance of public roads and highways in condition and repair, no other provision is made for the furnishing of tools and equipment to the workers engaged in such maintenance, or where such workers would otherwise be required to furnish their own tools and equipment, the boards of supervisors of the several counties shall provide the necessary tools and equipment for such workers within their several counties. [L. 1947, c. 88, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 66, Act 88.**

Note: §§ **6116-6120,** repealed **L. 1947,** c. 142 (B-100), s. 1 (c) ante. § **6124** was amended L. 1945, c. 172 (A-86); § **6130** was amended L. 1945, c. 68 (B-121).

Series B-102: ACT 7

An Act to Repeal Section 6133 of the Revised Laws of Hawaii 1945, Relating to Sidewalks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6133** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1947.) **S.B. 6, Act 7.**

Note: § **6135** was amended L. 1945, c. 68 (B-121).

Chapter 121. PENSIONS.

Series B-103: ACT 87

An Act to Amend Section 6184 of the Revised Laws of Hawaii 1945, Relating to the Municipal and County Pension Boards.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6184** of the Revised Laws of Hawaii 1945 is hereby amended by amending the last paragraph thereof to read as follows:

"Each board shall meet at least once each quarter. No board shall defer action upon any application for a pension beyond the second quarterly meeting following the date of the filing thereof."

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 15, Act 87.**

Note: §§ **6192.01-.04** were added L. 1945, c. 264 (B-122).

Series B-104: ACT 153

An Act to Amend Chapter 121, Revised Laws of Hawaii 1945, Relating to Pensions, by Amending Section 6192.03 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 121 of the Revised Laws of Hawaii 1945, as amended by Act 264 (Series B-122), Session Laws of Hawaii 1945, is hereby further amended by amending section 6192.03 thereof to read as follows:

"**Sec. 6192.03. Restrictions as to personnel.** The provisions of this Act shall not apply to any person who is in the service or employment of the Territory or any county on or after July 1, 1949." [L. 1945, c. 264, s. 3; am. L. 1947, c. 153, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1947.) **S.B. 197, Act 153.**

Title 17: GOVERNMENT OF HAWAII, KAUAI, MAUI.

Note: § **6220** was amended L. 1945, c. 236 (B-123); § **6233** was amended L. 1945, c. 56 (B-124) and c. 190 (B-125).

Chapter 122. GENERAL PROVISIONS AFFECTING HAWAII, KAUAI, MAUI.

Series B-105: ACT 197

An Act to Amend Section 6239 of the Revised Laws of Hawaii 1945, Relating to Meetings of the Board of Supervisors of the Several Counties.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6239** of the Revised Laws of Hawaii 1945 is hereby amended by substituting the word "eighteenth" for the word "fifteenth" in the fourth line of said section.

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 380, Act 197.**

Note: Result is that meeting dates for boards of supervisors, Hawaii, Kauai, Maui, are set to be on the **third** and **eighteenth** days of each month.

Note: § **6253,** see **L. 1947,** c. 151 (A-5) ante, re subordinates to act in registering voters. § **6266,** see **L. 1947,** c. 146 (B-98) re destruction of documents.

Series B-106: ACT 212

An Act Inserting in Title 17 of the Revised Laws of Hawaii 1945, a New Chapter, Numbered 122-A, Establishing a Uniform Police Commission Law for the Counties of Hawaii, Kauai and Maui, and Repealing Sections 5259; 6386 to 6401, Inclusive; 6430 to 6445, Inclusive; and 6467 to 6483, Inclusive, of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title 17 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new chapter, numbered 122-A, including new sections numbered 6291 to 6306, inclusive, to read as follows:

"CHAPTER 122-A. POLICE DEPARTMENTS, COUNTIES OF HAWAII, KAUAI AND MAUI.

Sec. 6291. Organization. The police department of each of the counties of Hawaii, Kauai and Maui shall consist of a police commission, chief of police, and force of police officers, and such other officers, clerks and employees as the commission may from time to time prescribe, appoint-

ed in the manner provided by this chapter. As used in this chapter 'board' means the board of supervisors, and 'commission' means the police commission of each of the counties of Hawaii, Kauai and Maui, and each reference herein to the police department, the chief of police or other police officers or employees, as well as any reference to other county officials, boards, or commissions, shall apply to the counties of Hawaii, Kauai and Maui separately and individually. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6292. Police commission; appointment. A police commission consisting of five members is created for each of the counties of Hawaii, Kauai and Maui, all of whom shall not belong to the same political party at the time of appointment. The members of the commission shall be appointed and may be removed by the governor in the manner provided by section 80 of the Organic Act. No member of the commission shall be a salaried officer or employee of the Territory or any political subdivision thereof. Any member becoming a candidate for any elective office ipso facto vacates his office as such member. Each commissioner must be at the time of his appointment an elector of his respective county and must have been such for at least three years next preceding his appointment. The commissioners shall serve without remuneration, but may be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The commission may employ such clerks, employees, and other assistants at such salaries as it may find necessary and for which funds are available. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6293. Term of office. One of said commissioners shall be appointed for a term to expire June 30, 1948, one for a term to expire June 30, 1949, one for a term to expire June 30, 1950, one for a term to expire June 30, 1951, and one for a term to expire June 30, 1952. Upon the expiration of the term of each commissioner, his successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term. Any vacancy in said commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6294. General powers of the commission. The commission shall hold regular public meetings at a designated time and place. The commission shall elect its chairman, the office to be rotated among the members so that no member shall serve as chairman during more than one year of a term. A majority shall constitute a quorum for the trans-

action of business; **provided** that a vote of three members shall be necessary to validate the appointment or removal of the chief of police. In the absence of the chairman, the remaining members shall elect an acting chairman. The commission shall adopt such rules and regulations as it may consider necessary for the conduct of its business and regulation of the matters herein committed to its charge. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6295. Training and promotions. The rules and regulations of the commission shall, among other things, provide for the proper training of police officers, and a merit system having for its purpose a systematic method of promotion of police officers based upon efficiency, service, and outstanding performance of official duties. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6296. Chief of Police. The commission shall appoint and may remove at pleasure a chief of police, who shall devote his full time to the duties of his office, and must at the time of his appointment have been a resident of the Territory for three years. Subject to the rules and regulations prescribed by the commission, he shall have control, management, and direction of all officers and employees serving under him with full power to detail any of such officers or employees to such public service as he may direct. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6297. Police force; employees. The chief of police shall have the power to appoint police officers and other officers and employees under such rules and regulations and at such salaries as may be authorized by law or prescribed by the commission under the terms of this chapter, but the commission may abolish any office or position in the department and revoke the salary or commission therefor, in which event, when necessary, the commission shall determine which of several officers or employees in the same class shall be released. Such rules and regulations shall provide that appointments may be made in the first instance for a probationary period of not over one year. The chief of police, with the approval of the commission, may appoint and remove without cause police instructors who need not have any residential qualifications. Except as otherwise provided, all acts or duties which may be performed by the chief of police may in like manner and with like effect be performed by any police officer under him.

On the island of Hawaii, no police officer of a grade higher than lieutenant, shall be appointed, assigned, or designated to (1) North and South Kohala, (2) North and South Kona, (3) Hamakua, (4) Puna, (5) Kau, or (6) North Hilo, except for purely temporary purposes of investigation or reorganization. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6298. Powers and duties of chief of police. The chief of police shall have all of the powers and shall perform all of the duties required by law. He shall consult and advise with the commission and act with its approval in all matters pertaining to the police department not herein specifically provided for, and shall make such reports from time to time as the commission shall require, and shall annually make a report to the commission of the state of affairs and condition of the police department. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6299. Suspension; dismissal; political activities prohibited. The dismissal and suspension of any officer or employee under the chief of police shall be in the manner provided by the rules and regulations of the commission. The chief of police may suspend or dismiss any officer or employee under him for incompetence, neglect of duty, drunkenness or failure to obey orders given him by proper authorities or for any other just cause, subject to the following provisions:

1. The order of suspension or dismissal shall be served upon the officer or employee dismissed or suspended by delivering to him a certified copy of the same or, in case he cannot be found, by mailing a certified copy of the same by registered mail addressed to him at his last known address.

2. Any officer or employee suspended shall in all cases have the right to apply in writing to the commission for an informal hearing of an explanation of his conduct and record, and he shall be heard within forty-eight hours of receipt of his application. Such right shall not include any necessity for a public hearing or for a disclosure to such officer or employee of the ground of his suspension or for the examination of witnesses. The commission upon receiving such application shall forthwith call upon the chief of police for a confidential statement of the reasons for the suspension of such officer or employee, and if, after considering both such statement and the explanation by the officer or employee so suspended, the commission shall feel either that such suspension is unjust or that the justice of it is questionable, it shall consider the matter as upon formal application for review and shall then act

with the same power, discretion and effect as though a formal application for review of the case had been taken in the manner provided by subsection 3 of this section. No officer or employee shall suffer any penalty, prejudice or discrimination by reason of exercising the right hereby conferred.

3. Any officer or employee dismissed or suspended for a period exceeding, or which, added to any previous suspensions, exceeds sixty days in any calendar year, may, within ten days from the date of the service upon him of the order so dismissing or suspending him, apply to the commission for a review of the case; the commission shall thereupon have power, in its discretion, either to entertain or to refuse to entertain such appeal: if it entertains such appeal, it may affirm, set aside, amend or modify such order, or make such further order, as in its judgment the facts shall warrant. The decision of the commission refusing to entertain an appeal, or its order upon appeal allowed, shall be final.

4. No officer or employee shall receive any compensation for the period of any suspension, unless after entertaining an appeal the commission shall so order.

This section shall not apply to any appointment made for a probationary period. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6300. Appropriations. The board of supervisors of each of the counties of Hawaii, Kauai, and Maui shall appropriate and hold in a special fund for the use of the police department of each such county, the following sums: (a) Hawaii county; sums aggregating not less than $344,520.00 per annum; (b) Kauai county; sums aggregating not less than $265,000.00 per annum; (c) Maui county; sums aggregating not less than $350,093.00 per annum; together with such other sums as may be necessary to cover salary increases, up to the maximum amounts provided for in this subtitle and prescribed by the police commission, from such funds as are available by law for this purpose. The board may from time to time, in its discretion, appropriate from the proper funds additional moneys to be used by the police department.

Any moneys appropriated for the commission for any year remaining unexpended may be, at the discretion of the commission and notwithstanding any other provision of law to the contrary, carried over for its use during any subsequent period and need not be deducted from the amount hereinabove required to be appropriated for any year. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6301. Disbursement of funds. All moneys appropriated for the police department shall be disbursed by the county treasurer only upon warrants issued by the auditor on vouchers signed by the chairman or acting chairman of the commission or such officer or employee as the commission may authorize. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6302. Hearings by commission. In all investigations made by the commission and in all proceedings before it relative to the police department or the officers or employees thereof, the commission and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judge at chambers. In case of disobedience by any person of any order of the commission or any member thereof or of any subpoena issued by it or him or of the refusal of any witness to testify to any matters regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the commission or a member thereof, to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid out of any appropriations available for the use of the police department. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6303. Quarters. The board shall make available to the police department sufficient and proper quarters in the police station in the county seat, and in each district in the county, for the use of the police department, and shall maintain and keep the same in repair. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6304. Generators. The commission may furnish, out of funds made available to it, suitable electric generators for the automobile of each police officer or employee who may be deemed entitled thereto due to the nature of his work. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6305. Salaries. The salaries of the chief of police and members of the police department shall be as follows:

Chief of police

Not less than $570.00 nor more than $695.00 per month;

Assistant Chief of police

Not less than $475.00 nor more than $595.00 per month;

Captains

Not less than $325.00 nor more than $385.00 per month;

Lieutenants

Not less than $295.00 nor more than $325.00 per month;

Sergeants

Not less than $265.00 nor more than $295.00 per month;

Patrolmen

Not less than $225.00 nor more than $255.00 per month;

Guards

Not less than $185.00 nor more than $215.00 per month.

The police commission shall prescribe the salary of each officer or employee within the limits herein above specified. For each necessary position, or employment, not specified herein, the police commission shall determine and prescribe the salary. [L. 1947, c. 212, pt. of s. 1.]

Sec. 6306. Car allowances; insurance. In addition to the salaries hereinabove provided, each member of the police department authorized by the police commission to use his own car in police service shall be allowed not less than twenty dollars nor more than seventy-five dollars per month as a car allowance, and shall be allowed gasoline and oil, based on official mileage, and shall have his public liability and property damage insurance paid for by the county. Allowance for other means of transportation, if furnished from the funds of and regularly used by a member of the police force, shall be only such as may be determined by the commission." [L. 1947, c. 212, pt. of s. 1.]

Section 2. **Sections 5259; 6386 to 6401,** inclusive; **6430 to 6445,** inclusive; and **6467 to 6483,** inclusive; of the Revised Laws of Hawaii 1945, are hereby repealed.

Section 3. For the purposes of continuity of service, tenure, seniority, prior service credit, vacation, sick leave and other employee benefits or privileges, this Act shall be deemed a continuation of the previously existing laws hereby repealed, and police commissioners in office immediately prior to the effective date of this Act shall hold office until their successors have been appointed and qualified under this Act. Any appropriations made for the police department of a county prior to the effective date of this Act shall be available for expenditure under this Act. The base pay increases for public employees provided for by the Public Salary and Bonus Law of 1947 (House Bill No. 132) shall not be applicable to employees covered by this Act, but any bonus provided for by said first mentioned Law or any other similar Act passed at the regular session of 1947 of the legislature shall be payable to such employees. [H. B. No. 132 is Act 208, (A-4), ante.]

Section 4. This Act shall take effect on July 1, 1947; **provided** that appointments to the police commission under this Act may be made by the governor prior to said effective date, to take effect on said date.

(Approved May 21, 1947.) **S.B. 149, Act 212.**

Chapter 124. PROVISIONS SPECIFIC FOR HAWAII.

Series B-107: ACT 209

An Act to Amend Sections 6352, 6411 and 6451 of the Revised Laws of Hawaii 1945, Relating to the Salaries of the Officers of the Counties of Hawaii, Kauai and Maui.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6352 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 6352. Salaries of officers, Hawaii.** The salaries of the following full time officers of the county of Hawaii are hereby fixed and shall be payable monthly out of the county treasury at the following rates:

	Per annum
Chairman and executive officer	$8,400.00
Members of board of supervisors (each)	2,200.00
County attorney (who shall not engage in the private practice of law)	7,380.00
First deputy county attorney (who shall not engage in the private practice of law)	6,780.00
Auditor	6,780.00
Treasurer	6,030.00
Clerk	6,030.00"

[R. L. 1945, s. 6352; am. L. 1947, c. 209, s. 1.]

Section 2. Section 6411 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 6411. Salaries of officers, Kauai.** The salaries of the following officers of the county of Kauai are hereby fixed and shall be paid monthly out of the county treasury at the following rates:

	Per annum
County chairman and executive officer	$8,400.00
Attorney	7,380.00
Engineer	7,980.00
Auditor	6,780.00
Treasurer	6,030.00
Clerk	6,030.00
Supervisors (each)	2,200.00"

[R. L. 1945, s. 6411; am. L. 1947, c. 209, s. 2.]

Section 3. Section 6451 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 6451. Salaries of officers, Maui.**

The salaries of the following officers of the county of Maui are hereby fixed and shall be paid monthly out of the county treasury at the following rates:

	Per annum
Chairman and executive officer of the board of supervisors	$8,400.00
Members of the board of supervisors (each)	2,200.00
Attorney	7,380.00
Auditor	6,780.00
Treasurer	6,030.00
Clerk	6,030.00"

[R. L. 1945, s. 6451; am. L. 1947, c. 209, s. 3.]

Section 4. Notwithstanding any other provision of this Act to the contrary, if any county officer whose salary is fixed by any of the foregoing sections, was actually receiving, prior to the enactment of this Act, a salary which, together with the bonus then payable to him, exceeded the amount determined by the foregoing sections, the compensation of such officer shall not be diminished by this Act but shall continue as the base pay for such officer so long as he is an incumbent of said office.

Section 5. The base pay increases granted by the Public Salary and Bonus Law of 1947 (House Bill No. 132) shall not be applicable or payable to any of the officers whose salaries are fixed by this Act, but any general bonus for all public employees which may be granted under said law or under any other similar law, shall be applicable and payable to said officers as a full time bonus.

Section 6. This Act shall take effect on July 1, 1947.

(Approved May 21, 1947.) **H.B. 83, Act 209.**

Note: H. B. No. 132 is Act 208, (A-4), L. 1947.

Series B-108: ACT 77

An Act to Amend Section 6358, Revised Laws of Hawaii 1945, Relating to the County of Hawaii Planning and Traffic Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6358 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 6358. County of Hawaii planning and traffic commission.** The board of supervisors shall have the power to create a county planning and traffic commission to be charged with the following duties:

(a) To formulate a master plan providing for the future growth, development and beautification of the county of Hawaii in its public and private buildings, streets, roads, grounds and vacant lots;

(b) To formulate subdivision and zoning regulations;

(c) To advise the board in the regulation of traffic;

(d) To recommend the establishment of building zones; and

(e) To perform such other duties as the board may prescribe." [L. 1929, c. 168, s. 1; R. L. 1935, s. 2918; R. L. 1945, s. 6358; am. L. 1947, c. 77, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **H.B. 166, Act 77.**

Series B-109: ACT 76

An Act to Amend Chapter 124 of the Revised Laws of Hawaii 1945, by Inserting Therein Two New Sections Numbered Section 6358.01 Relating to Zoning, and Section 6358.02 Relating to Buildings in the City of Hilo, County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 124 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein two new sections numbered section 6358.01 and section 6358.02, respectively, to read as follows:

"**Sec. 6358.01. Zoning regulations.** The board of supervisors is hereby authorized and empowered to regulate and limit the height, size, bulk, and use of buildings, to regulate and determine the area of yards, courts and other open spaces, to regulate and restrict the location of trades and industries and the location of buildings, and to regulate the use of land, in the city of Hilo." [L. 1947, c. 76, pt. of s. 1.]

"**Sec. 6358.02. Regulation of buildings.** The board of supervisors is hereby authorized and empowered to regulate, as to location, methods and materials of construction and otherwise, the erection, moving, repairing, placing and maintenance of buildings and other structures, so far as may be necessary or proper for the protection of life, health or property in the city of Hilo, county of Hawaii." [L. 1947, c. 76, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **H.B. 164, Act 76.**

Series B-110: ACT 193

An Act to Amend Chapter 124 Revised Laws of Hawaii 1945 by Inserting Therein a New Section, Numbered 6358.03, Relating to the Enactment of Standard Codes by Reference by the Board of Supervisors of the County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 124 Revised Laws of Hawaii 1945 is hereby amended by inserting therein a new section, numbered 6358.03, to read as follows:

"**Sec. 6358.03. Enactment of standard codes by reference.** Ordinances in the form of standard codes or portions thereof, regulating traffic, or regulating the construction of buildings, the installation of plumbing, the installation of electric wiring or other similar subject matters which may have been printed as a code in book or pamphlet form, may be enacted by reference thereto by the board of supervisors of the county of Hawaii by the passage of an ordinance for that purpose without the necessity of the publication of the entire contents of said codes, notwithstanding section 6235 of the Revised Laws of Hawaii 1945 to the contrary; provided, however, the titles of said codes and the fact of the contemplated enactment thereof into law shall be published at least once in a newspaper." [L. 1947, c. 193, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 201, Act 193.**

Series B-111: ACT 144

An Act to Amend Chapter 124 of the Revised Laws of Hawaii 1945 Relating to the County of Hawaii Bureau of Purchases and Supplies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 124 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By amending **section 6367** thereof by substituting for the words "supplies and materials" in line 8 thereof the words "materials, supplies and equipment".

(2) By amending **section 6368** thereof by inserting ", equipment" after the word "materials" in lines 2, 5 and 9 thereof.

(3) By amending **section 6369** thereof (a) by inserting ", equipment" after the word "supplies" in line 3 thereof and after the word "materials" in line 5 thereof; (b) by inserting at the end thereof two paragraphs to read as follows:

"The qualifications and definition of 'lowest responsible bidder' shall be fixed and determined by the county purchasing agent, with the approval of the chairman.

A list of all articles defined as 'patented' or 'proprietary' for which bids are not required shall be filed by the purchasing agent with the chairman and posted on the bulletin board in the office of the purchasing agent."

(4) By inserting a new section following said section 6369 reading as follows:

"Section 6369.01. Inspection of supplies, etc. and supervision of warehouses. The county purchasing agent shall inspect, or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine their conformance with the specifications set forth in the order or contract. Any using agency having the staff and facilities for adequate inspection may be authorized by the purchasing agent to inspect deliveries made to such using agency, under the rules and regulations which the purchasing agent shall establish. The purchasing agent shall have authority to prescribe the chemical and physical tests of samples submitted with bids and samples of deliveries to determine their quality and conformance with the county's specifications. In the performance of such tests, the purchasing agent shall have authority to make use of laboratory facilities of any agency of the county government. The costs of such tests shall be charged to the appropriation of the using agency in whose behalf the test is made.

The purchasing agent shall supervise all storerooms and warehouses placed under his control." [L. 1947, c. 144, pt. of s. 1.]

(5) By amending section 6370 thereof to read as follows:

[**Sec. 6370.**] **"Inventories, surplus, stock.** All using agencies shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of supplies, materials and equipment in use and on hand awaiting use. When any supplies, materials or equipment are surplus or not longer of use to any using agency, the purchasing agent may transfer it to other agencies which have need of it, making proper accounting for the value of the stock so transferred.

The purchasing agent shall prepare and keep a consolidated record of supplies, materials and equipment in the possession or control of each using agency of the county, and shall effect an annual settlement at the end of each calendar year with each department or establishment holding such property. The purchasing agent shall also prepare and keep a record of all real property belonging to the county and shall indicate on such record the use being made thereof. He shall, whenever directed by the board of supervisors, transmit a copy of all such records to the board.

With the approval by resolution of the board of supervisors the purchasing agent shall have power to sell all supplies, materials, or equipment not needed for public use or that may have become unsuitable for public use. Any such sale shall be based on competitive bids and conducted in accordance with regulations approved by the board." [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6370; am. L. 1947, c. 144, pt. of s. 1.]

(6) By amending **section 6371** thereof by substituting for the words "supplies and materials" in the second line thereof the words "supplies, materials and equipment".

(7) By amending **section 6373** thereof by substituting for the words "supplies and materials" in the third line thereof the words "supplies, materials or equipment".

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **H.B. 139, Act 144.**

Note: As so amended, §§ 6367, 6368, 6369, 6371 and 6373 read:

Sec. 6367. General powers and duties of the purchasing agent. The county purchasing agent shall have the aid of such assistants as the chairman of the board of supervisors, with the approval of the board, may appoint, after provision has been made for such assistants by the board of supervisors. The county purchasing agent and such assistants shall be under the direct control and authority of the chairman of the board.

It shall be the duty of the county purchasing agent, under the direction of the chairman of the board, to purchase all materials, supplies and equipment needed by any and all departments and establishments of the county, including county hospitals. [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6367; am. L. 1947, c. 144, s. 1.]

Sec. 6368. Requisitions and estimates. All using agencies of the county shall file detailed estimates of their requirements in supplies, materials, equipment and contractual services in such manner, at such time, and for such future periods as their county purchasing agent shall prescribe. This shall in no way prevent any using agency from filing a requisition for any supplies, materials, equipment or contractual services with the purchasing agent at any time because the need for such was not foreseen when the detailed estimates of the using agency were filed. Purchases shall be made

by the county purchasing agent only upon the requisitions of the using agencies; provided, however, that for materials, equipment or supplies in common use by more than one using agency, or used in large quantities by any using agency, the purchasing agency may purchase for stock on the basis of the total of such requisitions of estimates previously filed. [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6368; am. L. 1947, c. 144, s. 1.]

Sec. 6369. Open market purchases. Except in the case of purchases of patented or proprietary articles where no competition is possible or of materials, supplies, equipment or contractual services from any department, bureau or organization of the federal, territorial, or county governments, all purchases of and expenditures for supplies, materials, equipment or contractual services, the estimated value or cost of which is less than one thousand dollars, shall be made in the open market without advertisement.

All open market purchases shall be based on at least two competitive bids and shall be awarded to the lowest responsible bidder. The county purchasing agent shall also solicit bids either by direct mail request to prospective bidders or by telephone and by public notice on a bulletin board in his office.

The county purchasing agent shall keep a record of all open market purchase orders and the bids submitted thereon, which record shall be open to public inspection. The qualifications and definition of "lowest responsible bidder" shall be fixed and determined by the county purchasing agent, with the approval of the chairman.

A list of all articles defined as "patented" or "proprietary" for which bids are not required shall be filed by the purchasing agent with the chairman and posted on the bulletin board in the office of the purchasing agent. [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6369; am. L. 1947, c. 144, s. 1.]

Sec. 6371. Standardization. The county purchasing agent, with the approval of the board of supervisors, shall classify all the supplies, materials and equipment used by the various branches of the county government. He shall adopt as standards the minimum number of qualities consistent with the successful operation of the county government, and shall define and list all patented or proprietary articles in the furnishing of which no competition is possible and for which competitive bids shall not be required. He shall also prepare, adopt, promulgate and enforce written specifications of all standard commodities which are used in common by two or more agencies. The county purchasing agent may make use of the laboratory and engineering facilities of the county and the technical staffs thereof in connection with the work of preparing and adopting standards and written specifications. The county purchasing agent shall also freely consult with the heads and other officials of the using agencies to determine their requirements, and shall endeavor to prescribe those standards which meet the needs of the majority of such agencies. After its adoption, each standard specification shall, until revised or rescinded, apply alike in term and effect to every future purchase and contract for the commodity described in such

specification; **provided,** however, that the county purchasing agent, with the approval of the board of supervisors, may exempt any using agency of the county from use of the commodity described in such standard specification. [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6371; am. L. 1947, c. 144, pt. of s. 1.]

Sec. 6373. Payments. All purchases made under this subtitle shall be paid out of the funds appropriated and made available for such purchase for each using agency. When the supplies, materials or equipment requisitioned are delivered to a using agency, such using agency shall forthwith prepare and submit vouchers to the county purchasing agent and when the same are approved by the county purchasing agent and finally approved by the board of supervisors, the auditor shall issue warrants in favor of the designated payee or payees. [L. Sp. 1941, c. 65, pt. of s. 1; am. L. 1943, c. 114, pt. of s. 1; R. L. 1945, s. 6373; am. L. 1947, c. 144, pt. of s. 1.]

Series B-112: ACT 40

An Act to Amend Chapter 124 of the Revised Laws of Hawaii 1945, by Inserting Therein a New Section to be Numbered Section 6378.01, Relating to the Disposition of Revenues Received from Services Rendered by the Bureau of Water Works, Sewers and Sanitation, Department of Public Works of the County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 124 of the Revised Laws of Hawaii 1945, is hereby amended by inserting therein a new section to be numbered section 6378.01 and to read as follows:

"**Sec. 6378.01. Revenues of bureau of water works, sewers and sanitation.** All revenues received by the bureau of water works, sewers and sanitation, of the department of public works, as charges for water and sewer rates, cemetery plats, and for garbage collection and disposal including interest and penalties for delinquent accounts, shall be deposited daily with the county treasurer and are hereby appropriated for the sole use of the bureau of water works, sewers and sanitation of the department of public works, for the construction, extension, replacement and maintenance of the water, sewer and garbage collection and disposal systems in the county of Hawaii, and for any alterations in the present systems necessitated by such extensions. It shall be the duty of, and the county treasurer is hereby directed to establish a special fund to be known as the water works, sewers and sanitation fund to be used only for the purposes mentioned herein." [L. 1947, c. 40, s. 1.]

Section 2. This Act shall take effect on January 1, 1948.

(Approved May 5, 1947.) **S.B. 202, Act 40.**

Series B-113: ACT 222

An Act Relating to the Special Fund, Sewer System, South Hilo, Hawaii, and Amending Section 6380 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6380** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the figures "1948", in the third line thereof, the figures "1953".

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 465, Act 222.**

Note: § **6381** was repealed L. 1945, c. 93 (B-126); § **6385** was amended L. 1945, c. 29 (B-127). §§ **6386-6401, repealed L. 1947,** c. 212 (B-106) ante.

Series B-114: ACT 174

An Act to Organize and Create a Department in and for the County of Hawaii for the Prevention and Control of Fire Hazards and of Fires, Including Other Matters Incidental Thereto, and to Be Known and Described as the "Hawaii Fire Department"; Providing Penalties for Violations of the Provisions of said Act; and Authorizing the Board of Supervisors of the County of Hawaii to Provide for the Further Regulation and Control of Fire Hazards and Fires in Said County by Ordinance Including Penalties Not Inconsistent with the Provisions of this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 124 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new subtitle following section 6401 therein, which shall read as follows:

"HAWAII FIRE DEPARTMENT".

Section 2. Chapter 124 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding three new sections and several paragraphs within each section therein following the subtitle referred to in the preceding section. Said sections shall be numbered 6402 to 6404 inclusive, and which shall read as follows:

"**Sec. 6402.** (a) **Organization.** There is hereby organized and created for and within the county of Hawaii a department to be known and described as the 'Hawaii Fire Department', whose principal office of business shall be located in the fire station in the city of Hilo and which shall

be under the general authority and control of the board of supervisors of the county of Hawaii. All public fire stations, fire fighting apparatus, equipment, automobiles, materials and supplies used by the department shall be a part of said department;

(b) **Chief engineer.** The chairman with the approval of the board of supervisors shall appoint a chief engineer who shall be the head of the department and shall be vested with the management and control of said department subject to the general authority and control of the board of supervisors. All persons employed by the county in the department shall perform their duties and responsibilities at the direction of the chief engineer. Whenever by any law of the Territory, powers are conferred on or any duty is imposed upon a 'fire chief' or chief engineer of a fire department and which is applicable to the county of Hawaii, the words 'fire chief' or 'chief engineer' shall mean and include the chief engineer heretofore mentioned in this section. The chief engineer shall also have the powers of a deputy to the fire marshal of the Territory and in addition to the foregoing the provisions of section 6315 of the Revised Laws of Hawaii 1945, shall be applicable to the office of chief engineer hereby created:

(c) **Assistant engineers.** The chairman with the approval of the board of supervisors may appoint assistant engineers who shall be under the direction of the chief engineer and shall have general supervision over the employees in the department. The assistant engineer or engineers shall perform such duties as may be directed by the chief engineer in addition to those that may be assigned to them by the board of supervisors. The foregoing duties required of the assistant engineers shall be established in the manner provided in chapter 3 of the Revised Laws of Hawaii 1945. In case of the absence or disability of the chief engineer his duties shall be performed by the assistant engineers in the order of their rating.

(d) **Tenure of office; qualifications; salaries; etc.; of the chief engineer and the assistant engineers.** The terms of office of the chief engineer and the assistant engineers shall be for three years beginning on January 2nd, of each odd year; **provided,** however, the first term of office for the chief engineer and assistant engineers shall begin on July 1, 1947, and shall end at noon on January 2nd, 1949. The chief engineer and all assistant engineers at the time of their respective appointments to office shall be possessed of all

the qualifications required by law for electors in the county, and shall have been a resident of the county of Hawaii for at least one year immediately preceding the date of their respective appointments. The chief engineer shall be paid such monthly salary by the county as shall be fixed by the board of supervisors; **provided,** however, the same shall not be less than the minimum salary rate provided in grade 14 in section 115 of the Revised Laws of Hawaii 1945. The assistant engineers shall be paid such monthly salary by the board of supervisors in accordance with the salary range provided in grade 12 of section 115, Revised Laws of Hawaii 1945, and according to the requirements provided in chapter 3 thereof;

(e) **Employees, salaries, etc.** All captains, lieutenants, fire apparatus drivers, mechanics, firemen and other employees of the county in the department shall be appointed and dismissed only in accordance with the civil service laws of the Territory; they shall be paid such monthly salary at the rates to be fixed in accordance with the provisions of chapter 3 of the Revised Laws of Hawaii 1945; and there shall be no employment unless the board of supervisors shall firstly appropriate the money therefor; **provided,** however, that all employees of the county in said department in service on the effective date of this Act shall be retained in their respective positions subject to dismissal only in accordance with the provisions of chapter 2 herein;

(f) All persons employed by the county in the fire department shall in addition to other duties be required by the chief engineer to attend fire drills and fires. The chief engineer may excuse such employees from said required attendance whenever in his opinion the efficiency of the department will not be impaired or for the following reasons, to-wit:

(1) Illness or physical inability on the part of the employee;

(2) Inability of the chief engineer to notify the employee within a reasonable time;

(3) Absence of the employee from the county of Hawaii; and

(4) In the case of fire drill, if the employee is not on active duty at that time. Refusal on the part of any employee to attend fire drills or fires shall be a cause for suspension or dismissal from his position. [L. 1947, c. 174, pt. of s. 2.]

Sec. 6403. Fires; interference at; violations; penalties. (a) Fires; interference at; penalty. Upon the occasion of any fire, any person breaking through the limits set by the chief engineer (excepting owners or occupants of buildings in the immediate vicinity of the fire with permission or consent of chief engineer), or interfering with the movements or working of any fire engine or machinery, or maliciously or carelessly running over any line of hose in use at the fire, or in any manner at any time intentionally injuring any portion of the fire apparatus, or otherwise interfering with the actions of the chief engineer, any employee of the department or other authorized persons assisting the chief engineer in extinguishing or controlling the same; shall be deemed guilty of a misdemeanor, and upon conviction shall be punished in accordance with the provisions of paragraph 'h' of this section;

(b) **Removing suspicious persons.** The chief engineer or any police officer is authorized to remove or cause to be removed and kept away from the vicinity of the fire, by force if necessary, any idle or suspicious person and all persons not, in their judgment, fit to be employed, or not actually or usefully employed in aiding in the extinguishing or controlling of the fire, or the preservation of property in the vicinity thereof;

(c) **Access to adjacent premises.** The chief engineer and persons acting under his order shall, for the purpose of saving property and obtaining control of a fire, have the right to enter in and upon any premises in the immediate neighborhood of such fire; and any person refusing to allow such access may be forcibly removed;

(d) **Right of way in streets.** The engines, automobiles, and other apparatus of the fire department shall, in all cases of alarms of fire, have the right of way through all streets, alleys, lanes, byways, and highways in the county;

(e) **Notice of explosives.** The occupants or owners of any building which may be on fire or in danger of fire in which any explosive-material or oil shall be stored, shall immediately give notice thereof to the chief engineer of such fact;

(f) **Destroying buildings.** The chief engineer may direct any house or building to be pulled down, blown up or otherwise demolished, when he deems the same to be necessary, in order to prevent the spreading of fire and any person attempting to prevent him from doing so shall be deemed guilty of a misdemeanor, and upon conviction shall be punished in accordance with the provisions of paragraph 'h' of this section;

(g) **Assistance from bystanders.** The chief engineer may, during the continuance of a fire, require assistance from any person present for extinguishing the same, and for removing furniture, goods, merchandise and property from a building on fire or in danger thereof, and may appoint guards to secure the same. He may also require assistance for demolishing a house or building when he deems it necessary, and may suppress all tumults and disorders at such fire. All persons at a fire shall obey the orders of the chief engineer;

(h) **Penalty.** Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment of not more than six months or by both fine and imprisonment. [L. 1947, c. 174, pt. of s. 2.]

Sec. 6404. (a) **Powers of the board of supervisors.** The board of supervisors of the county is hereby authorized and empowered to provide by ordinance for the further control or prevention of fire hazards and fires contemplated by this chapter, not inconsistent with the provisions hereof, and in said ordinance may provide penalties for violations of the provisions of said ordinance;

(b) Notwithstanding any of the provisions of this Act, the provisions of any other law of the Territory pertaining to the control and prevention of fire hazards and of fires in the county of Hawaii shall be applicable in said county, including penalties for violations thereof." [L. 1947, c. 174, pt. of s. 2.]

Section 3. It is provided by this Act that no salary for any fireman employed by the county in the department shall be fixed and payable at a rate less than the minimum salary rate provided in service and grade 5, section 115, Revised Laws of Hawaii 1945.

Section 4. It is further provided that chapter 123 of the Revised Laws of Hawaii 1945, excepting section 6315 provided therein, shall not be applicable to the county of Hawaii.

Section 5. This Act shall take effect on July 1, 1947.

(Approved May 19, 1947.) **S.B. 205, Act 174.**

Chapter 125. PROVISIONS SPECIFIC FOR KAUAI.

Note: § 6411, amended L. 1947, c. 209 (B-107) ante. § 6412 was amended L. 1945, c. 75 (B-128); § 6414.01 was added L. 1945, c. 6 (B-129); § 6416 (R. L. 1945), repealed L. 1945, c. 93 (B-126).

Series B-115: ACT 51

An Act to Add Section 6416 to Chapter 125 of the Revised Laws of Hawaii 1945, Relating to the Samuel Mahelona Memorial Hospital.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6416 is hereby added to chapter 125 of the Revised Laws of Hawaii 1945 to read as follows:

"**Sec. 6416. Moneys of the Samuel Mahelona Memorial Hospital.** All moneys appropriated to the Samuel Mahelona Memorial Hospital, and all moneys received from any source for the use of the services or facilities of, or for the maintenance and upkeep of the hospital shall be deposited in a special fund of the treasury of the county of Kauai and all expenditures of the hospital shall be paid upon warrants issued by the auditor of the county upon vouchers duly approved and directed to be paid by the trustees of the hospital.

The auditor of the county shall have the authority to issue a warrant for an amount not to exceed two hundred dollars in favor of the board of trustees to be kept and expended by them as a petty cash fund and he may prescribe such terms and conditions as he deems necessary for the proper administration and accountability of such fund." [L. 1947, c. 51, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1947.) **H.B. 284, Act 51.**

Series B-116: ACT 37

An Act Adding a New Section to the Revised Laws of Hawaii 1945, to Be Known as Section 6428.01, Giving the Board of Supervisors of the County of Kauai Power to Expend a Sum Not Exceeding Fifty Thousand Dollars ($50,000.00) Annually From the General Fund, for a Period of Four Years, for Permanent Additions or Improvements to the Water Works and Water System or Systems of Said County.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section is hereby added to the Revised Laws of Hawaii 1945, to be known as section 6428.01 and to read as follows:

"**Sec. 6428.01. Appropriations.** The board of supervisors of the county of Kauai may set aside and appropriate annually from the general fund, for a period of four years, a sum not exceeding fifty thousand dollars ($50,000.00) for permanent additions or improvements to the water works and water system or systems of said county." [L. 1947, c. 37, s. 1.]

Section 2. This Act shall take effect on July 1, 1947.

(Approved May 5, 1947.) **H.B. 273, Act 37.**

Note: §§ **6430-6445, repealed L. 1947,** c. 212 (B-106) ante.

Chapter 126. PROVISIONS SPECIFIC FOR MAUI.

Note: § **6451,** amended **L. 1947,** c. 209 (B-107) ante.

Series B-117: ACT 25

An Act Relating to the Maui Department of Public Works, Repealing Sections 6464 and 6466, and Amending Section 6465 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Sections 6464 and 6466** of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. Section 6465 of said Revised Laws is hereby amended to read as follows:

"**Sec. 6465.** [**County Engineer.**] A county engineer, who shall be a registered professional engineer of recognized standing and ability and shall be known as the county engineer, shall be appointed and be removable by the chairman

of the board of supervisors of the county of Maui with the consent of the board of supervisors. The county engineer shall receive a salary of not less than $6,000.00 per annum from said county (unless said salary shall be otherwise determined pursuant to any applicable classification law in effect from time to time), and shall be vested with, and have, enjoy, perform and be subject to such powers and duties and functions as shall be prescribed by said board of supervisors." [L. Sp. 1941, c. 9, pt. of s. 1; R. L. 1945, s. 6465; am. L. 1947, c. 25, s. 1.]

Section 3. This Act shall take effect upon its approval.

(Approved May 1, 1947.) **S.B. 24, Act 25.**

Note: **§ 6466, repealed L. 1947,** c. 25, s. 1 (B-117), supra. **§§ 6467-6483, repealed L. 1947,** c. 212 (B-106) ante.

Title 18: HONOLULU GOVERNMENT.

Chapter 127. CITY AND COUNTY OF HONOLULU.

Note: **§ 6521,** (5), amended **L. 1947,** J. R. 17, post. For par. (12), (35A), (43), see L. 1945. **§ 6522.01 was added L. 1945, c. 141 (B-133); § 6524** was repealed **L. 1945, c. 93 (B-126); § 6526** was amended **L. 1945, c. 83 (A-111); § 6527.01** was added L. 1945, c. 225 (B-134).

Series B-118: ACT 131

An Act to Amend Chapter 127 of the Revised Laws of Hawaii 1945, Relating to the City and County of Honolulu by Adding Thereto New Sections to Be Numbered 6529.01 Relating to Special Election of Elective Officers; 6564.01 Relating to Special Election; and 6569.01 Relating to Disqualification of Persons Elected to Elective Office and by Amending Section 6563 Relating to Certificate of Election.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 127 of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto the following new sections to be numbered and to read as follows:

"**Sec. 6529.01. Officers, elective; special election.** In the event any person elected to fill an elective office of the city and county, as specified in chapter 127, section 6528,

except a member of the board of supervisors, is or becomes incapacitated or disqualified by reason of death, insanity or conviction of any criminal offense punishable by imprisonment for a term exceeding one year without having been pardoned therefor and restored to civil rights, occurring in the period following the date of election and prior to the day of qualification, pursuant to chapter 127, section 6569.01, a special election shall be held to fill such office pursuant to chapter 127, section 6564.01. [L. 1947, c. 131, pt. of s. 1.]

Sec. 6564.01. Special election. In the event of incapacity or disqualification under section 6569.01 of any person elected to fill an elective office, except a member of the board of supervisors, the mayor shall issue a proclamation requiring a special election to be held to fill such office. Such proclamation shall be issued by the mayor not later than five (5) days subsequent to the date of death, or the date of presentation of certificate of insanity or conviction to the board of supervisors of the city and county of Honolulu, or the date of voluntary commitment for insanity under section 4033. Such special election shall be held at least twenty (20) days but no more than thirty (30) days subsequent to the date of issuance of such proclamation. Except as otherwise provided in this chapter, such special election shall conform to the regular election held under the provisions of this chapter. The expense of such special election shall be paid by the city and county of Honolulu from its General Emergency Reserve Fund. [L. 1947, c. 131, pt. of s. 1.]

Sec. 6569.01. Disqualification of person elected to elective office. Any person elected to fill an elective office shall be incapacitated or disqualified to take office by reason of death, insanity or conviction of any criminal offense punishable by imprisonment for a term exceeding one year, without having been pardoned therefor and restored to his civil rights, occurring in the period following the date of election and the day of qualification. Where such incapacity or disqualification occurs, the clerk or his deputy of the city and county of Honolulu shall present a certified copy of a death certificate on file with the registrar of the board of health of the Territory of Hawaii, a certificate of conviction or insanity on file in said clerk's office, or a written statement by the medical director of the Territorial hospital certifying to an admission pursuant to section 4033,

to the board of supervisors of the city and county of Honolulu which shall adopt by resolution such evidence as a matter of record." [L. 1947, c. 131, pt. of s. 1.]

Section 2. **Section 6563** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end of said section the following paragraph:

"In the event of the incapacity or disqualification under section 6569.01 of any person elected to fill the office of member of the board of supervisors, occurring in the period following the date of election and prior to the day of qualification, the clerk shall immediately, upon due notification of such incapacity or disqualification, issue a certificate of election to the candidate for member of the board of supervisors who received the highest number of votes of the candidates failing of election to the office of member of the board of supervisors at such election."

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 59, Act 131.**

Note: As so amended, § 6563 reads:

Sec. 6563. Tabulation; certificate of election. Upon receiving returns of election, the city and county clerk shall immediately tabulate the same and ascertain the result of the election; such tabulation shall be made in the presence of any candidate or his agent who desires to be present. The persons receiving the highest number of votes shall be declared elected, and the city and county clerk shall immediately deliver to the persons elected certificates of election.

In the event of the incapacity or disqualification under section 6569.01 of any person elected to fill the office of member of the board of supervisors, occurring in the period following the date of election and prior to the day of qualification, the clerk shall immediately, upon due notification of such incapacity or disqualification, issue a certificate of election to the candidate for member of the board of supervisors who received the highest number of votes of the candidates failing of election to the office of member of the board of supervisors at such election. [L. 1907, c. 118, s. 50; R. L. 1925, s. 1770; R. L. 1935, s. 3054; R. L. 1945, s. 6563; am. L. 1947, c. 131, s. 2.]

See s. 242, tabulation of returns; and s. 247, expenses.

Series B-119: ACT 210

An Act Amending Chapter 127 of the Revised Laws of Hawaii 1945, Relating to Salaries of City and County Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 127 of the Revised Laws of Hawaii 1945 is hereby amended by amending section 6548 thereof to read as follows:

"**Sec. 6548. Salaries of certain officers.** The salaries of the following officers of the city and county shall be payable semi-monthly out of the city and county treasury at the following annual rates:

Mayor	$11,960.00
Members of the board of supervisors	1,860.00
Sheriff	7,700.00
City and county clerk	8,740.00
Auditor	8,740.00
Treasurer	8,740.00

Any general increase in the base pay of public officers and employees (other than teachers) of the Territory and counties which may be provided for by any other law shall be applicable to the aforesaid city and county officers unless specifically otherwise provided in such other law, and the aforesaid rates shall be deemed amended accordingly to incorporate such increase in base pay; any general bonus for public officers and employees of the Territory and counties which may be provided for by any other law shall likewise be payable to said officers unless otherwise specifically provided in such other law." [R. L. 1945, s. 6548; am. L. 1947, c. 210, s. 1.]

Section 2. This Act shall take effect on July 1, 1947.

(Approved May 21, 1947.) **H.B. 471, Act 210.**

Note: See Act 208, (A-4), ante, re bonus.

Series B-120: ACT 11

An Act to Amend Section 6550 of the Revised Laws of Hawaii 1945, as Amended by Act 263, Session Laws of Hawaii 1945, Relating to Salaries of Officers and Members of the Police Department of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6550,** as amended, of the Revised Laws of Hawaii 1945, is hereby amended by amending the sixth line thereof to read as follows:

"Deputy chief of police.....$6,660.00"

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1947.) **H.B. 337, Act 11.**

Series B-121: ACT 106

An Act to Amend Section 6552 of the Revised Laws of Hawaii 1945, Relating to Salaries of Officers and Members of the Fire Department of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6552** of the Revised Laws of Hawaii 1945, is hereby amended by amending the fifth to seventh lines inclusive thereof to read as follows:

"Fire Chief.....$8,000.00
Deputy Fire Chief..... 6,660.00
Assistant Fire Chief..... 5,400.00"

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 119, Act 106.**

Note: § **6553** was amended **L.** 1945, c. 263 (A-4); § **6555** was repealed L. 1945, c. 263 (A-4); § **6559** was amended L. 1945, c. 236 (B-123). § **6563,** amended **L. 1947,** c. 131 (B-118) ante; § **6564.01,** added **L. 1947,** c. 131 (B-118) ante; § **6569.01** added **L. 1947,** c. 131 (B-118) ante.

Series B-122: ACT 166

An Act to Amend Section 6591 of the Revised Laws of Hawaii 1945, Relating to the Disposition of Unappropriated Surplus and Unencumbered Balances of Any Appropriations in Any Fund of the City and County of Honolulu at the End of Any Fiscal Year, and Relating to the General Emergency Reserve Fund.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6591 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 6591. Fund balances and reserve.** All unappropriated surplus and all unencumbered balances of any appropriations in any fund at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year; **provided,** however, that the controller shall transfer all such surplus and unencumbered balances of any appropriations of the general fund to the general emergency reserve fund, until such time as the cash balance in such reserve fund shall amount to ten percent of the annual general fund appropriations for the preceding year, except that not more than fifty thousand dollars shall be transferred by the controller into the general emergency reserve fund from such unappropriated surplus and unencumbered balances of any appropriations of the general fund at the end of the fiscal years 1947 and 1948, and all unappropriated surplus and all unencumbered balances of any appropriations of the general fund in excess of fifty thousand dollars at the end of the fiscal years 1947 and 1948, shall be available for appropriation for the respective succeeding fiscal years; **provided** further that no appropriation from such reserve fund shall be made except upon recommendation of the mayor and the approval of five members of the board of supervisors. The controller may authorize loans from the general emergency reserve fund to other funds temporarily requiring cash." [L. 1939, c. 242, s. 4 (33a); R. L. 1945, s. 6591; am. L. 1947, c. 166, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 827, Act 166.**

Note: § **6592,** amended **L. 1947,** c. 18 (A-13), s. 2, ante. See note to that Act for rewritten section.

Series B-123: ACT 234

An Act to Amend Section 6594 of the Revised Laws of Hawaii 1945, as Amended by Act 138, Session Laws of Hawaii 1945, Relating to the Auditor, City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6594** of the Revised Laws of Hawaii 1945, as amended by Act 138, Session Laws of Hawaii 1945, is hereby amended by substituting a period for the semi-colon after the word "funds" and deleting the sentence "**provided** that he shall make a monthly audit of each departmental revolving fund".

Section 2. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 494, Act 234.**

Note: See L. 1945, c. 138 (B-135) for further amendment of this § 6594. § 6614 was amended L. 1945, c. 95 (A-10).

Series B-124: ACT 217

An Act to Amend Section 6636, as Amended, of the Revised Laws of Hawaii 1945, Relating to the Master Plan.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6636** of the Revised Laws of Hawaii 1945, as amended by Act 7 of the Session Laws of 1945, is hereby amended by deleting from lines one and two thereof, "As soon as practicable, but not later than December 31, 1947," and by capitalizing in line two thereof the letter "t" in the word "the", and by adding at the end thereof a new sentence reading as follows:

"The master plan of the city of Honolulu, as defined in section 6502, shall be prepared and adopted by the end of 1947."

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **H.B. 776, Act 217.**

Note: As so amended, § 6636 reads:

"**Sec. 6636. Master plan of the city.** The commission shall prepare and thereafter from time to time may modify, a master plan of the city of Honolulu, as defined in section 6502, and of such other areas of the city and county as may be made subject thereto pursuant to the procedure therefor provided in section 6637, which shall show desirable streets, roads, highways, and the grades thereof, bridges, parks, parkways, and other public ways, playgrounds, sites for public buildings and other structures, building zone districts, use zone districts, waterways, routes of street railroads, omnibus and other public carriers, (**provided** that such plan shall not affect heretofore legally authorized routes), locations of drainage systems, sewers, sewage treatment plans, incinerators, water conduits, and other public utilities, privately or publicly owned, and such other features, changes and

additions as will provide for the improvement of the city and its future growth and development, and afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health and welfare of its population; **provided,** however, that street grades and public utilities may be shown on the master plan or any part thereof subsequent to the time of the adoption by the commission of the master plan or such part thereof. The commission may adopt the master plan as a whole or may from time to time adopt a part or parts thereof. Before adopting the master plan or any part or modification thereof, the commission shall hold a public hearing or hearings, published notice of each which, except an adjourned meeting, shall be given. The master plan and all modifications thereof shall be kept on file in the office of the commission. The master plan of the city of Honolulu, as defined in section 6502, shall be prepared and adopted by the end of 1947. [L. 1939, c. 242, pt. of s. 4 (69); am. L. 1941, c. 323, s. 1; am. L. 1943, c. 148, s. 1; R. L. 1945, s. 6636; am. L. 1945, c. 7, s. 1; am. L. 1947, c. 217, s. 1.]

Chapter 129. HIGHWAYS, IMPROVEMENT BY ASSESSMENT.

Series B-125: ACT 211

An Act to Amend Sections 6701 and 6705 of the Revised Laws of Hawaii 1945, Relating to Highways and Improvement by Assessment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6701** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the clause "(if not assumed by the city and county under the discretionary power contained in section 6705)" appearing in lines eleven and twelve thereof, the following:

"(if not assumed by the city and county in the manner provided in section 6705)".

Section 2. **Section 6705** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the proviso reading "provided that in the case of a main or general thoroughfare, it shall be lawful for the city and county to assume and pay out of available funds all or any part of the cost of pavement in excess of twenty-six feet in width;" appearing in lines twelve to fifteen, inclusive, thereof, the following:

"**provided** that in the case of a main or general thoroughfare, as hereinafter defined, the city and county shall assume and pay out of available funds all costs of acquiring all land necessary for a roadway in excess of forty feet in width, and all costs of pavement in excess of twenty-six feet in width;".

Section 3. This Act shall take effect upon its approval.

(Approved May 21, 1947.) **H.B. 651, Act 211.**

Note: As so amended, §§ 6701 and 6705 read:

Sec. 6701. Method. Whenever in the opinion of the board of supervisors of the city and county it is desirable to establish, open, extend, widen or alter any street, alley or other highway, including sidewalks, in the district of Honolulu, except Moanalua, or to grade, pave, curb, or macadamize or otherwise improve the whole or any part of any existing public street, alley or other highway or sidewalks in the district of Honolulu, except Moanalua, including the construction of a storm drainage system, or otherwise improve the same to an extent exceeding maintenance and repair thereof, or to construct or improve a storm drainage system independently, such betterments or improvements shall be made and done under the provisions of this chapter; and the cost thereof, including the cost (if not assumed by the city and county in the manner provided in section 6705) of acquiring, whether prior to or after the commencement of the proceedings for such betterments or improvements, any new land therefor, shall be assessed against the land specially benefited, either on a frontage basis or according to area of the land within an improvement district or on both an area and frontage basis; and the city and county may issue and sell bonds to provide the funds for such improvements, which bonds shall be secured by such assessments as a lien upon the lands assessed; and for such purpose the board is vested with power and is authorized to create, define and establish frontage improvements or improvement districts; all according to the provisions of this chapter. [L. 1913, c. 131, s. 1; am. L. 1915, c. 164, s. 1; am. L. 1917, c. 239, s. 1; am. L. 1919, c. 241, s. 1; am. L. 1920, c. 13, s. 1; am. L. 1923, c. 184, s. 1; R. L. 1925, s. 1851; am. L. 1925, c. 191, s. 1; R. L. 1935, s. 3180; am. L. 1939, c. 242, s. 5 (1); R. L. 1945, s. 6701; am. L. 1947, c. 211, s. 1.]

[**Sec. 6702,** amended **L. 1947,** c. 44 (B-126), next act.]

Sec. 6705. Certain costs to be borne by municipality. The city and county shall pay out of any funds available for such purposes the entire cost of engineering, incidentals and inspection, and in case of frontage improvement the cost assessable against the frontage or frontages of any adjoining or cross street or in case of area improvement districts, the cost of improving the area common to both streets at the intersection of any cross street or one-half of the area opposite the intersection of any adjoining street, and thirty-three and one-third per centum of the total cost of general improvements (excluding engineering, incidentals and inspection and cost of new curbing and sidewalks) upon or along all main or general thoroughfares and upon or along all other streets or highways, except where improvements are initiated under sections 6708 and 6709; **provided** that in the case of a main or general thoroughfare, as hereinafter defined, the city and county shall assume and pay out of available funds all costs of acquiring all land necessary for a roadway in excess of forty feet in width, and all costs of pavement in excess of twenty-six feet in width; **provided** further, it shall be lawful for the city and county to assume and pay out of such available funds the cost of widening any street or highway in any district where the costs of construction of the street or highway to be widened were assessed

against the lands benefited by such construction in the manner provided by this chapter. A main or general thoroughfare within the meaning hereof shall be any street or highway as is subjected to more than ordinary traffic and travel by the general public or which serves as a generally necessary connecting thoroughfare between substantially different or naturally separated localities or sections of Honolulu.

The board whenever in its judgment the interests of the city and county will be best served and to protect the city and county from claims for damages from surface waters, may provide for the collection and disposition of storm waters by proceeding independently of any other improvement proceedings, and, in either event, pay the whole or any part of the cost thereof out of available funds, or may assess the whole or any part of the cost thereof according to the benefits arising therefrom and in the manner provided for apportioning assessments for general improvements. And it shall be lawful for the city and county to assume and pay out of such available funds all or any part of the cost of acquiring any new land required for any improvement under the provisions of this chapter. [L. 1919, c. 241, pt. of s. 2; am. L. 1920, c. 13, s. 2; am. L. 1923, c. 184, s. 2; R. L. 1925, s. 1853; am. L. 1925, c. 191, s. 3; R. L. 1935, s. 3184; am. L. 1939, c. 242, pt. of s. 5; am. L. 1941, c. 287, s. 1; R. L. 1945, s. 6705; am. L. 1947, c. 211, s. 2.]

Series B-126: ACT 44

An Act to Amend Section 6702 of the Revised Laws of Hawaii 1945, Relating to the Construction of Sanitary Sewerage Systems.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6702 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 6702. Sanitary sewerage systems.** The term 'storm drainage system' whenever used in this chapter shall include 'sanitary sewerage system'; **provided,** however, that for the construction of sanitary sewerage systems, the lands specially benefited by such improvement shall be assessed according to the area of the lands within an improvement district at the rate of 4 cents per square foot, and the balance of the cost shall be borne by the city and county, except that, where the construction of any such system is initiated under section 6708 or 6709, the total cost thereof shall be assessed against the lands specially benefited." [L. 1927, c. 98, s. 1; R. L. 1935, s. 3181; am. L. 1939, c. 210, s. 1; R. L. 1945, s. 6702; am. L. 1947, c. 44, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **S.B. 334, Act 44.**

Note: § **6705,** amended **L. 1947,** c. 211 (B-125), ante. § **6709,** amended **L. 1947,** J. R. 23, post.

Series B-127: ACT 145

An Act to Amend Section 6710 of the Revised Laws of Hawaii 1945, Relating to Highways and Improvement by Assessment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6710** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"In the event that land shall have been acquired by condemnation under the provisions of chapter 8 and in the award made on the condemnation there shall have been deducted from the compensation or damages otherwise payable to the landowner, any amount by reason of the fact that land of such landowner not sought to be condemned would be benefited by the construction of improvements proposed to be made after the condemnation, it shall be unlawful to make any assessments against such land under this chapter without having first credited against the amount for which said land would otherwise have been assessed the amount that shall have been deducted in the award made on condemnation for benefits by reason of the construction of improvements proposed to be made after condemnation." [L. 1913, c. 131, s. 5; am. L. 1915, c. 164, s. 5; am. L. 1917, c. 239, s. 4; am. L. 1925, c. 191, s. 6; R. L. 1945, s. 6710; am. L. 1947, c. 145, s. 1]

Section 2. This act shall take effect upon its approval.

(Approved May 17, 1947.) **H.B. 658, Act 145.**

Note: The first part of 6710, to which the above is added, reads:

Sec. 6710. Determination by supervisors. After the hearing provided in section 6706, the board shall consider any protests, objections, or suggestions which may have been made or filed and whether sufficient valid protests have been filed to compel it to abandon any part or all of the proposed improvement. If the board still has jurisdiction to continue it shall then proceed, determine whether or not the proposed improvements shall be made as proposed, or made with modifications, and in the latter event modifications or changes, not substantially reducing the frontage or area to be assessed, and not increasing the maximum estimated unit of assessment, or lessening the unit cost per front foot or square foot may be made without again giving notice of a hearing as provided in section 6706; **provided,** such modifications or changes shall not materially alter the general character or plan so advertised. If, after such initial or further advertisement and hearing when no changes are made which will require further advertisement or hearing, the board shall have determined to proceed with the improvements, it shall, by resolution requiring not more than one reading for its adoption, create, define and establish the extent of the frontage improvement or the improvement district to be assessed,

as the case may be, and define the kind, extent and general details of the proposed improvements, describe each parcel of land to be acquired, if any, declare the part or proportion of the cost of the improvement which is to be borne by the city and county as aforesaid, the method of assessment, and the kinds of materials to be used, and by the resolution further direct the city and county engineer to prepare a corrected map of the highway or highways to be improved showing the abutting lands, or of the improvement district showing the highways therein to be improved, or the storm drainage system to be constructed or improved, as the case may be, and showing the exact location of the improvements, together with final details, plans and specifications for the work; all in such form as will readily permit and encourage genuine competition between contractors insofar as the materials specified will permit of such competition; and the same, when by resolution similarly approved and adopted by the board, shall be used as the basis for the calling of bids and awarding of a contract or contracts for the work as hereinafter provided.

In case the improvements so determined upon shall require the acquisition of any new land therefor, the board shall acquire the same before final award of the contract, either by deed, or other voluntary conveyance from the owners thereof, or it may, at its option, and in the name of the city and county cause condemnation proceedings to be brought to acquire the same in like manner as by law provided or like proceedings when brought by the superintendent of public works, and after the filing of the petition in such proceedings the final award of the contract may be made. If the cost of acquiring such land shall exceed the estimate therefor, the board may provide for the excess cost by general appropriation.

Note: § **6760.01** was added L. 1945, c. 237 (B-137); §§ **6761-63** were amended L. 1945, c. 237 (B-137).

Series B-128: ACT 120

An Act Relating to the Board of Public Parks and Recreation and Amending Sections 6768, as Amended, 6772, as Amended, and 6774, as Amended, of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6768,** as amended, of the Revised Laws of Hawaii 1945, is hereby further amended by inserting therein between the first and second paragraphs thereof, the following new paragraph:*

"The board shall have full and complete authority to provide facilities and equipment for, and to manage, supervise, control and promote all programs relating to the use of public parks, public playgrounds, public recreation centers, gymnasiums, playrooms, swimming pools, athletic fields, courts, golf courses, picnic and camping grounds and other similar public recreation grounds and halls, which may be under

their jurisdiction and control, for the moral, intellectual and physical welfare of the public; with the consent and under such conditions as may be prescribed by the department of buildings of the city and county of Honolulu and the department of public instruction, to initiate, supervise and promote recreation programs after school hours and during vacation on properties under the control of the department of public instruction in the city and county of Honolulu; to appoint and supply experienced and well trained leaders in the field of public recreation; to interpret community recreation needs to the community by developing a program of public relations, publicity and cooperation with other agencies and the public; and to perform such other duties and functions pertaining to the promotion of public recreation as may be prescribed from time to time."

Section 2. Section 6772, as amended, of the Revised Laws of Hawaii 1945, is hereby further amended to read as follows:

"**Sec. 6772. Appropriations.** The board of supervisors shall appropriate for the use of the board of public parks and recreation from the general funds of the city and county of Honolulu a sum of not less than $850,000.00 per annum, to be made available in equal monthly amounts for the maintenance and development of parks, playgrounds and other recreational facilities. The board of supervisors may, from time to time in its discretion, appropriate from the proper funds moneys to be used by the board of public parks and recreation in the furtherance of its plans for the development of parks, playgrounds, and other recreational facilities. Any unexpected balance of the appropriation made under this section remaining at the end of any calendar year shall not be lapsed but shall be deducted from the amount to be appropriated for the ensuing year." [R. L. 1945, s. 6772; am. L. 1945, c. 83, s. 4; am. L. 1945, c. 237, s. 7; am. in toto L. 1947, c. 120, s. 2.]

Section 3. This Act shall take effect on July 1, 1947.

(Approved May 16, 1947.) **H.B. 25, Act 120.**

* Note: As so amended, § 6768 reads:

Sec. 6768. Parks, recreation and playgrounds in charge of board. All public parks, public recreation grounds and public playgrounds in the city and county of Honolulu owned by said city and county or in its possession or control other than Makiki Valley park or reservation, together with all equipment, supplies and paraphernalia, and all real or personal property of whatsoever nature used in connection with the same, shall be under the control and management of the board of public parks and recreation, including without prejudice to the generality of the foregoing, all personal and other property now in the possession and control of the recreation commission of the city and county of Honolulu.

The board shall have full and complete authority to provide facilities and equipment for, and to manage, supervise, control and promote all programs relating to the use of public parks, public playgrounds, public recreation centers, gymnasiums, playrooms, swimming pools, athletic fields, courts, golf courses, picnic and camping grounds and other similar public recreation grounds and halls, which may be under their jurisdiction and control, for the moral, intellectual and physical welfare of the public; with the consent and under such conditions as may be prescribed by the department of buildings of the city and county of Honolulu and the department of public instruction, to initiate, supervise and promote recreation programs after school hours and during vacation on properties under the control of the department of public instruction in the city and county of Honolulu; to appoint and supply experienced and well trained leaders in the field of public recreation; to interpret community recreation needs to the community by developing a program of public relations, publicity and cooperation with other agencies and the public; and to perform such other duties and functions pertaining to the promotion of public recreation as may be prescribed from time to time.

The board shall determine the value of all permanent improvements to parks, recreation grounds and playgrounds and in this regard shall determine the additional property that may be acquired from time to time and the kind and nature of improvements to be constructed on the same.

The board shall also have full and complete authority over the trimming and removal of all shade trees, hedges and shrubs growing on the public streets of the district of Honolulu and the planting of the same upon such streets, and concurrently with the respective property owners shall have full and complete authority over the trimming and removal of all shade trees, hedges and shrubs growing over the public streets of such district. [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3227; am. L. 1939, c. 242, s. 6 (2); R. L. 1945, s. 6768; am. L. 1945, c. 237, s. 4; am. L. 1947, c. 120, s. 1.]

Note: §§ **6769-71** and **6773-75** were amended L. 1945, c. 237 (B-137).

Series B-129: ACT 139

An Act to Amend Sections 6809 and 6810 of the Revised Laws of Hawaii 1945, Relating to Service of Process by Police Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph number 3 of **section 6809** of the Revised Laws of Hawaii 1945 is hereby amended by striking the semicolon at the end thereof and adding thereafter the following:

"and in civil proceedings where process must be served in the districts on the Island of Oahu outside of the district of Honolulu;"

Section 2. **Section 6810** of the Revised Laws of Hawaii 1945

is hereby amended by adding at the end of the first sentence thereof the following:

"excepting however, that it shall be mandatory upon the chief of police and his subordinates to serve such processes and notices in the districts on the Island of Oahu outside of the district of Honolulu and without the necessity of any request by said sheriff".

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 843, Act 139.**

Note: As so amended, §§ 6809 and 6810 read:

Sec. 6809. Specific duties. The chief of police shall have the following duties:

1. To preserve the public peace and prevent and suppress affrays, riots and insurrections;

2. To arrest and take before the nearest qualified magistrate for examination all persons who have committed or attempted to commit a public offense, and through any officer designated by him to prosecute the same under the direction of the public prosecutor;

3. To serve all process and notices in criminal proceedings and in civil proceedings where process must be served in the districts on the island of Oahu outside of the district of Honolulu;

4. In any emergency requiring the same to command the aid of such inhabitants of the city and county as he may think necessary in the execution of his duties;

5. To exercise general police supervision and control over all pawnbrokers, peddlers, junk shop keepers, auctioneers and dealers in second-hand merchandise; to examine the books and premises of any such persons when in search of property feloniously obtained or of evidence of the commission of crime. [L. 1932, 1st, c. 1, pt. of s. 1; am. L. 1932, 1st, c. 13, pt. of s. 1; R. L. 1935, s. 3248; R. L. 1945, s. 6809; am. L. 1947, c. 139, s. 1.]

Sec. 6810. Service of process. The police department may at the request of the sheriff of the city and county serve processes and notices which are permitted by law to be served by police officers in the manner prescribed by law, excepting however, that it shall be mandatory upon the chief of police and his subordinates to serve such processes and notices in the districts on the Island of Oahu outside of the district of Honolulu and without the necessity of any request by said sheriff. There shall be indorsed on every process or notice the year, month, day, hour and minute of reception, and whenever requested there shall be issued to the person delivering the same, on payment of any fees required by law, a receipt showing the name of the parties, title of paper, when received and amount paid. The officer making service shall certify under his hand upon every process or notice served by him the manner and time of service, or if he fails to make service the reason of his failure, and shall return such process or notice without delay. [L. 1932, 1st, c. 1, pt. of s. 1; R. L. 1935, s. 3249; R. L. 1945, s. 6810; am. L. 1947, c. 139, s. 2.]

Note: § 6812 was amended L. 1945, c. 91 (B-138).

PART C

BUSINESS

Title 19: BUSINESS REGULATED IN COUNTIES.

Chapter 133. COUNTY LICENSES GENERALLY.

Note: § **7036.01,** added L. 1945, c. 36 (C-139), re pinball, etc. games; § **7070.01,** added **L. 1947,** c. 14 (A-27), re forfeiture of fishing gear.

Chapter 137. INTOXICATING LIQUOR.

§ **7221,** amended L. 1945, c. 144 (C-140), "club".

Series C-130: ACT 148

An Act to Amend Sections 7232 and 7271 of the Revised Laws of Hawaii 1945, Relating to Intoxicating Liquor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7232** of the Revised Laws of Hawaii 1945 is hereby amended by changing the period at the end of the paragraph entitled "Class 3. Wholesale dealers' licenses" to a comma and adding thereto the following words:

"or to aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the Territory of Hawaii."

Section 2. Section 7271 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 7271. Payment to be made.** Whenever liquor shall be purchased by the holder of a retail, dispenser, club or vessel license from the holder of a manufacturer's or wholesale license, the amount added to the price on account of the tax imposed by chapter 104, as provided by section 5605, shall be paid by the purchaser within twenty days after the end of the month in which such purchase shall have been made. On the failure to make such payment within such time the commission may in its discretion suspend the license of the purchaser for a period of not more than ten days for the first failure and not more than twenty days for any subsequent failure.

It shall be the duty of the holder of a manufacturer's or wholesale license to report the failure of a purchaser to comply with the provisions of this section to the commission of the county in which the purchaser holds a license, in order that the suspensions provided by this section may be enforced by such commission; any holder of a manufacturer's or wholesale license who shall fail to make such

report may likewise be subject to the suspensions hereinabove provided." [L. Sp. 1941, c. 89, s. 1 (e); R. L. 1945, s. 7271; am. L. 1947, c. 148, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 32, Act 148.**

Note: As so amended, "Class 3. Wholesale dealers' licenses" of § 7232 reads:

Class 3. **Wholesale dealers' licenses.** A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods. Such license shall authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption. Under such license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) alcohol. Should any wholesale dealer solicit or take any orders in any county other than that where his place of business is located, such orders may be filled only by shipment direct from the county in which such wholesale dealer has his license, or by direct shipment from outside the Territory on indent orders. **Provided,** however, that nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation passenger service between any two or more ports in the Territory, or to aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the Territory of Hawaii. [Am. L. 1947, c. 148, s. 1.]

Note: § 7252 (9), amended L. 1945, c. 217 (C-141).

Chapter 138. MOTOR VEHICLES: CHAUFFER'S AND OPERATOR'S LICENSE, etc.

Series C-131: ACT 38

An Act to Amend Section 7304 (8) of the Revised Laws of Hawaii 1945, Relating to Chauffeurs' and Operators' License.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7304** of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph 8 thereof to read as follows:

"8. To any person, as an operator, who is under the age of seventeen years; **provided,** however, that a special license may be issued to a person who is between the ages of fifteen and sixteen, inclusive, which said special license shall be suspended or revoked by the examiner of chauffeurs on the

order of a court, judge, or magistrate having jurisdiction over the holder of any such special license. Upon a revocation, no further license shall be issued to such person until he reaches the age of seventeen years."

Section 2. This Act shall take effect upon its approval.
(Approved May 5, 1947.) **H.B. 348, Act 38.**

Note: As so amended, § 7304 reads:

Sec. 7304. What persons shall not be licensed. The examiner of chauffeurs shall not issue any license hereunder:

1. To any person as an operator or chauffeur, whose license has been suspended by a court of competent jurisdiction during such suspension period, nor to any person whose license has been revoked until the expiration of one year after the date of such revocation; nor to any person who, while unlicensed, has within two years been convicted of driving while drunk;

2. To any person as a chauffeur who is under the age of twenty years;

3. To any person, as an operator or chauffeur, who has been adjudged an habitual drunkard or an addict to the use of narcotic drugs by a court of competent jurisdiction;

4. To any person, as an operator or chauffeur, who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

5. To any person, as an operator or chauffeur, who is required by this part to take an examination, unless such person shall have successfully passed such examination;

6. To any person who is required under the provisions of the motor vehicle financial responsibility laws of this Territory to deposit proof of financial responsibility and who has not deposited such proof;

7. To any person when the examiner of chauffeurs has good cause to believe that such person by reason of physicial or mental disability would not be able to operate a motor vehicle with safety upon the highways; **provided,** however, that any person denied a license under this or any other section of this part shall have a right of appeal as hereinafter provided;

8. To any person, as an operator, who is under the age of seventeen years; **provided,** however, that a special license may be issued to a person who is between the ages of fifteen and sixteen, inclusive, which said special license shall be suspended or revoked by the examiner of chauffeurs on the order of a court, judge, or magistrate having jurisdiction over the holder of any such special license. Upon a revocation, no further license shall be issued to such person until he reaches the age of seventeen years. [L. 1937, c. 234, s. 4; am. L. 1943, c. 121, s. 1; R. L. 1945, s. 7304; am. L. 1947, c. 38, s. 1.]

See s. 7414, financial responsibility of minors, and generally, R. L. 1945, c. 140, part I; and next act L. 1947, c. 168 (C-132).

Note: § 7305 was amended L. 1945, c. 110 (C-142), re school busses.

Chapter 140. MOTOR VEHICLES: LIABILITY INSURANCE, COMPULSORY.

Series C-132: ACT 168

An Act Relating to Cancellations of the Requirement of Furnishing Proof of Financial Responsibility Under the Territory's Automobile Liability Security Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 140 of the Revised Laws of Hawaii 1945 is hereby amended by amending Section 7417 thereof to read as follows:

"**Sec. 7417. Proof of financial responsibility to be maintained; exceptions.** Whenever in accordance with the provisions of this part a person has furnished proof of financial responsibility for the purpose of obtaining a chauffeur's or operator's license or the registration of a motor vehicle owned by him, it shall be obligatory upon such person thereafter to maintain such proof and, in the event that such proof lapses or becomes diminished in security or amount, it shall be the duty of the treasurer to suspend the chauffeur's or operator's license and certificates, if any, in connection with which such proof was furnished, until such proof sufficient in amount has again been furnished; **provided,** however, that any person, who has been convicted of an offense and whose license has been revoked, and who as a consequence thereof is required after the expiration of the statutory period to furnish such proof in order to obtain a new license, and any person who is required to furnish such proof as a consequence of failing to satisfy any judgment, may apply to the court in which such conviction became final or in which such judgment was rendered for a review of the circumstances of his case and for a cancellation of the requirement of proof, and the court, if satisfied from the aforesaid review, and from all the evidence submitted that the request should be granted, may effect the cancellation requested, notifying the treasurer of its action; **provided,** further, however, that no such application shall be entertained until the expiration of one year from the date of conviction when the revocation was not mandatory, and until the expiration of two years from the date of conviction when the revocation was mandatory, or until the expiration of five years from the date of a judgment which was not satisfied." [L. 1933, c. 166, s. 17; am. L. 1939, c. 99, s. 2; R. L. 1945, s. 7417; am. L. 1947, c. 168, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 19, 1947.) **H.B. 922, Act 168.**

Note: § **7553,** amended L. 1945, c. 202 (C-143), boxing comm., expenses.

Title 21: CORPORATIONS—PARTNERSHIPS.
Chapter 152. BANKS, etc.

Note: § **8034** was amended L. 1945, c. 143 (C-144), re residence of directors.

Series C-133: ACT 4

An Act to Amend Section 8038 of the Revised Laws of Hawaii 1945, Relating to Branch Banks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 8038** of the Revised Laws of Hawaii 1945 is hereby amended by amending the first four lines of the second paragraph thereof to read as follows:

"No bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank, more than two branch banks (whether designated as branch banks or collection offices) within each of Zones I and II, or more than one such branch bank within Zone III, such zones being hereinafter described as follows:".

Section 2. All laws or parts of laws inconsistent with this Act are hereby amended to conform to this Act.

Section 3. This Act shall take effect upon its approval.

(Approved April 8, 1947.) **S.B. 167, Act 4.**

Note: As so amended, § 8038 reads:

Sec. 8038. Branch banks. No bank or any officer or director, agent or employee thereof, shall open or maintain any branch in the Territory, or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the treasurer may approve, except as hereinafter authorized; **provided,** that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the Territory, and **provided** further, that nothing in this section contained shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

No bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank, more than two branch banks (whether designated as branch banks or collection offices) within each of zones I and II, or more than one such branch bank within zone III, such zones being hereinafter described as follows:

Zone I: extending from the western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street Extension to the boundary between Manoa Valley and Palolo Valley, and thence along said boundary to the Koolau range;

Zone III: extending from the eastern limits of zone II to the eastern limits of the district of Honolulu. [L. 1931, c. 177, s. 36; R. L. 1935, s. 6536; am. L. 1941, c. 97, s. 1; R. L. 1945, s. 8038; am. L. 1947, c. 4, s. 1.]

Note: § **8041.01-.02,** added L. 1945, c. 143 (C-144), re residence of directors.

Chapter 153. BUILDING AND LOAN ASSOCIATIONS.

Series C-134: ACT 181

An Act to Amend Sections 8212, 8225, 8227 and 8228 of the Revised Laws of Hawaii 1945, Relating to Building and Loan Associations and Savings and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8212 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 8212. Restrictions on stock.** No stock shall be issued upon which a different or stipulated rate of dividends or interest shall be guaranteed or paid before or regardless of the amount of dividends distributed to other classes of shares, except as authorized by this chapter. Nothing in this chapter shall be construed to prohibit or limit the right of an association to pay a different or higher rate of dividend on guaranty stock than on other classes of stock or shares of the association; **provided,** however, that the rate of dividends so apportioned and credited during any year on guaranty stock shall not exceed four per centum more than the average rate of dividends apportioned and credited to withdrawable stock entitled to dividends.

No shares shall be issued which shall be exempt from bearing their portion of loss or debts of the association in proportion to but not exceeding their book value, not covered by reserves or guaranty shares." [L. 1927, c. 208, ss. 9, 10; R. L. 1935, s. 6659; am. L. 1939, c. 174, s. 3; R. L. 1945, s. 8212; am. L. 1947, c. 181, s. 1.]

Note: § **8222.01,** added L. 1945, c. 98 (C-145) re loans on homes.

Section 2. Section 8225 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 8225. Loans, surplus funds.** When funds shall accumulate in excess of the demands from members for ordinary loans, such surplus funds may be loaned to either members or non-members, irrespective of the purpose for which the loan is desired, secured by mortgage on real estate in the Territory, or by bonds, debentures and notes issued by any federal home loan bank, subject to the total amount that may be loaned to any one individual as limited in section 8228; **provided,** further, that in the case of foreign associations insured under the Federal Savings and Loan Insurance Corporation, and doing business in the Territory, such loans may be made on real estate located without the Territory, but within such other state or territory in which such association is authorized to do business; and **provided** further, that the aggregate amount of all loans made pursuant to this section to non-members and on real estate other than on the home of the borrower, shall not at any time exceed twenty per centum of the capital of the association. In the case of any loan authorized by this section without the Territory, the association shall, within ninety days after the making thereof, furnish the bank examiner of the Territory with a statement containing the location of the property, a description thereof sufficient to comply with the recording statutes of the jurisdiction in which the property is situated, the appraised value thereof, and the amount of the loan thereon.

Surplus funds may also be invested in stock issued by any federal home loan bank of which such association may be eligible to be a member and in bonds, debentures and notes issued by any federal home loan bank and in securities satisfactory to the board of directors and of a character suitable for trust investment." [L. 1927, c. 208, s. 19; L. 1933, c. 167, s. 2; R. L. 1935, s. 6669; am. L. 1941, c. 272, s. 16; R. L. 1945, s. 8225; am. L. 1947, c. 181, s. 2.]

Section 3. Section 8227 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 8227. Funds derived from territorial business.** Except as to real estate mortgages and the money invested therein, made by foreign associations doing business in the Territory on real estate located outside the Territory, as provided for in section 8225, all moneys representing payments

or investments by members or investors residing in the Territory, and all securities representing investments of such funds shall be invested and kept in the Territory; **provided,** that exclusive of real estate mortgages and the money invested therein by foreign associations doing business in the Territory on real estate located outside the Territory, with the written consent of the bank examiner, surplus funds as defined in section 8225 may be invested without the Territory, **provided** such funds and the securities representing investments of the same are deposited with a bank, trust company, or other depository approved in writing by the bank examiner under such trust or escrow agreement as shall be mutually entered into in writing by the bank examiner, the association, and such depository, designed to earmark and safeguard funds and securities. Nothing herein or in this chapter shall be construed to prohibit the right of persons residing in the Territory to make investments direct at the home office of any foreign association doing business in the Territory." [L. 1935, c. 197, s. 9; R. L. 1945, s. 8227; am. L. 1947, c. 181, s. 3.]

Section 4. Section 8228 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 8228. Restrictions on loans; unlawful to make certain loans.** The total amount that may be loaned by an association to any one borrower shall not exceed thirty-five thousand dollars. No loan shall be made to or for the benefit of a director, an officer or employee, except when secured by home property owned and occupied by such director, officer or employee.

No loan shall be made upon the security of any of its own guaranty stock or permanent nonwithdrawable capital stock; and any officer or director who shall make any such loan or consent thereto shall be personally liable to the association for the full amount thereof, and shall also be guilty of a misdemeanor and upon conviction shall be punished as hereinafter provided." [L. 1941, c. 272, s. 18; R. L. 1945, s. 8228; am. L. 1947, c. 181, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 323, Act 181.**

Chapter 154. COOPERATIVE ASSOCIATIONS.

Series C-135: ACT 235

An Act to Amend Section 8254 of Chapter 154 of the Revised Laws of Hawaii 1945, Relating to Cooperative Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 8254** of the Revised Laws of Hawaii 1945, is hereby amended by amending that portion following "chapter;" in line three of said section to read as follows:

"**provided,** that the word 'cooperative' shall form a part of the name of corporations formed under this chapter, and no Hawaiian corporation not organized under this chapter shall use the word 'cooperative' as a part of its name. Any corporation duly organized as a cooperative under the laws of any state or of the District of Columbia may do business in the Territory as a cooperative and use its corporate name even though such name includes the word 'cooperative', upon compliance with the law relating to foreign corporations."

Section 2. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 522, Act 235.**

Note: As so amended, § 8254 reads:

Sec. 8254. How formed. The corporation shall be formed in the manner prescribed in, and be subject to, the provisions of chapter 155, so far as they are not inconsistent with the provisions of this chapter; **provided,** that the word "cooperative" shall form a part of the name of corporations formed under this chapter, and no Hawaiian corporation not organized under this chapter shall use the word "cooperative" as a part of its name. Any corporation duly organized as a cooperative under the laws of any state or of the District of Columbia may do business in the Territory as a cooperative and use its corporate name even though such name includes the word "cooperative", upon compliance with the law relating to foreign corporations. [L. 1915, c. 186, s. 2; R. L. 1945, s. 8254; am. L. 1947, c. 235, s. 1.]

Chapter 155. CORPORATIONS.

Note: § 8304, amended L. 1945, c. 143 (C-144). § 8325, repealed (?) by L. 1947, c. 124 (C-136).

Series C-136: ACT 124

An Act to Provide for the Transfer of Stock Certificates.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8325.01.] Section 1. **How title to certificates and shares may be transferred.** Title to a certificate and to the shares represented thereby can be transferred only (a) by delivery of the certificate endorsed either in blank or to a specified person by the person appearing by the certificate to be the owner of the shares represented thereby, or (b) by delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign, or transfer the same or the shares represented thereby, signed by the person appearing by the certificate to be the owner of the shares represented thereby. Such assignment of power of attorney may be either in blank or to a specified person.

The provisions of this section shall be applicable although the charter or articles of association or by-laws of the corporation issuing the certificate and the certificate itself provide that the shares represented thereby shall be transferable only on the books of the corporation or shall be registered by a registrar or transferred by a transfer agent. [L. 1947, c. 124, s. 1.]

[Sec. 8325.02.] Section 2. **Powers of those lacking full legal capacity and of fiduciaries not enlarged.** Nothing in this Act shall be construed as enlarging the powers of an infant or other person lacking full legal capacity, or of a trustee, executor or administrator, or other fiduciary, to make a valid endorsement, assignment or power of attorney. [L. 1947, c. 124, s. 2.]

[Sec. 8325.03.] Section 3. **Corporation not forbidden to treat registered holder as owner.** Nothing in this Act shall be construed as forbidding a corporation (a) to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, or (b) to hold liable for calls and assessments a person registered on its books as the owner of shares. [L. 1947, c. 124, s. 3.]

[Sec. 8325.04.] Section 4. **Title derived from certificate extinguishes title derived from a separate document.** The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and determine if, at any time prior to the surrender of the certificate

to the corporation issuing it, another person, for value in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of such certificate with the endorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of such certificate and the written assignment or power of attorney of such person, though contained in a separate document. [L. 1947, c. 124, s. 4.]

[Sec. 8325.05.] Section 5. **Who may deliver a certificate.** The delivery of a certificate to transfer title in accordance with the provisions of section 1, is effectual, except as provided in section 7, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title. [L. 1947, c. 124, s. 5.]

[Sec. 8325.06.] Section 6. **Endorsement effectual in spite of fraud, duress, mistake, revocation, death, incapacity or lack of consideration or authority.** The endorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby is effectual, except as provided in section 7, though the endorser or transferor (a) was induced by fraud, duress, or mistake, to make the endorsement or delivery, or (b) has revoked the delivery of the certificate, or the authority given by the endorsement or delivery of the certificate, or (c) has died or become legally incapacitated after the endorsement, whether before or after the delivery of the certificate, or (d) has received no consideration. [L. 1947, c. 124, s. 6.]

[Sec. 8325.07.] Section 7. **Rescission of transfer.** The possession of a certificate may be reclaimed and the transfer thereof rescinded (1) if the endorsement or delivery of the certificate (a) was procured by fraud or duress, or (b) was made under such mistake as to make the endorsement or delivery inequitable, or (2) if the delivery of the certificate was made (a) without authority from the owner, or (b) after the owner's death or legal incapacity, unless (1) the certificate has been transferred to a purchaser for value in good faith without notice of any facts making the transfer wrongful, or (2) the injured person has elected to waive the injury, or has been guilty of laches in endeavoring to enforce his rights.

Any court of appropriate jurisdiction may enforce specifically such right to reclaim the possession of the certificate or to rescind the transfer thereof and, pending litigation, may enjoin the further transfer of the certificate or impound it. [L. 1947, c. 124, s. 7.]

[Sec. 8325.08.] Section 8. **Rescission of transfer of certificate does not invalidate subsequent transfer by transferee in possession.** Although the transfer of a certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificate by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an indefeasible right to the certificate and the shares represented thereby. [L. 1947, c. 124, s. 8.]

[Sec. 8325.09.] Section 9. **Delivery of unendorsed certificate imposes obligation to endorse.** The delivery of a certificate by the person appearing by the certificate to be the owner thereof without the endorsement requisite for the transfer of the certificate and the shares represented thereby, but with intent to transfer such certificate or shares, shall impose an obligation, in the absence of an agreement to the contrary, upon the person so delivering, to complete the transfer by making the necessary endorsement. The transfer shall take effect as of the time when the endorsement is actually made. This obligation may be specifically enforced. [L. 1947, c. 124, s. 9.]

[Sec. 8325.10.] Section 10. **Ineffectual attempt to transfer amounts to promise to transfer.** An attempted transfer of title to a certificate or to the shares represented thereby without delivery of the certificate shall have the effect of a promise to transfer and the obligation, if any, imposed by such promise shall be determined by the law governing the formation and performance of contracts. [L. 1947, c. 124, s. 10.]

[Sec. 8325.11.] Section 11. **Warranties on sale of certificate.** A person who for value transfers a certificate, including one who assigns for value a claim secured by a certificate, unless a contrary intention appears, warrants (a) that the certificate is genuine, (b) that he has a legal right to transfer it, and (c) that he has no knowledge of any fact which would impair the validity of the certificate.

In the case of an assignment of a claim secured by a certificate, the liability of the assignor upon such warranty shall not exceed the amount of the claim. [L. 1947, c. 124, s. 11.]

[Sec. 8325.12.] Section 12. **No warranty implied from accepting payment of a debt.** A mortgagee, pledgee, or other holder for security of a certificate who in good faith demands or receives payment of the debt for which such certificate is security, whether from a party to a draft drawn for such debt,

or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such certificate, or the value of the shares represented thereby. [L. 1947, c. 124, s. 12.]

[Sec. 8325.13.] Section 13. **No issuance of new certificate unless old certificate surrendered.** Except when a certificate has been lost or destroyed or the shares evidenced by a certificate have been sold for a delinquent assessment of nonpayment of the subscription price, a corporation shall not be compelled to issue a new certificate for shares until the old certificate is surrendered to it. In case any part of the delinquent shares represented by an outstanding certificate are sold or forfeited, such certificate must be surrendered to the corporation before the holder thereof shall be entitled to a new certificate for the unsold or unforfeited shares. [L. 1947, c. 124, s. 13.]

[Sec. 8325.14.] Section 14. **Effect of lien.** A corporation shall be under no obligation to transfer shares upon its books or to issue a new certificate for shares which are subject to the lien of an attachment or execution unless and until the lien shall be discharged, but the corporation may in its discretion issue a new certificate with the notation thereon of the fact that it is claimed that the shares are subject to the lien of an attachment or execution. A corporation may require as a condition of the transfer of shares upon its books the payment of all calls previously made or installments of the purchase or subscription price due at the time of registration, if such calls or installments are a lien thereon effective as against the person demanding registration, and of all assessments which have been levied and made a lien upon such shares. [L. 1947, c. 124, s. 14.]

[Sec. 8325.15.] Section 15. **Alteration of certificate does not divest title to shares.** The alteration of a certificate, whether fraudulent or not and by whomsoever made, shall not deprive the owner of his title to the certificate and the shares originally represented thereby, and the transfer of such a certificate shall convey to the transferee a good title to such certificate and to the shares originally represented thereby. [L. 1947, c. 124, s. 15.]

[Sec. 8325.16.] Section 16. **Lost or destroyed certificate.** Where a certificate has been lost or destroyed, a court of competent jurisdiction may order the issue of a new certificate therefor on service of process upon the corporation and on reasonable notice by publication, and in any other way which the court may direct, to all persons interested, and upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the corporation or any person injured by the issue of the new certificate from any liability or expense, which it or

they may incur by reason of the original certificate remaining outstanding. The court may also in its discretion order the payment of the corporation's reasonable costs and counsel fees.

The issue of a new certificate under an order of the court as provided in this section, shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceedings or of the issuance of the new certificate. [L. 1947, c. 124, s. 16.]

[Sec. 8325.17.] Section 17. **Rule for cases not provided for by this Act.** In any case not provided for by this Act, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern. [L. 1947, c. 124, s. 17.]

[Sec. 8325.18.] Section 18. **Interpretation shall give effect to purpose of uniformity.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [L. 1947, c. 124, s. 18.]

[Sec. 8325.19.] Section 19. **Definition of endorsement.** A certificate is endorsed when an assignment or a power of attorney to sell, assign, or transfer the certificate or the shares represented thereby is written on the certificate and signed by the person appearing by the certificate to be the owner of the shares represented thereby, or when the signature of such person is written without more upon the back of the certificate. In any of such cases a certificate is endorsed though it has not been delivered. [L. 1947, c. 124, s. 19.]

[Sec. 8325.20.] Section 20. **Definition of person appearing to be the owner of certificate.** The person to whom a certificate was originally issued is the person appearing by the certificate to be the owner thereof, and of the shares represented thereby, until and unless he endorses the certificate to another specified person, and thereupon such other specified person is the person appearing by the certificate to be the owner thereof until and unless he also endorses the certificate to another specified person. Subsequent special endorsements may be made with like effect. [L. 1947, c. 124, s. 20.]

[Sec. 8325.21.] Section 21. **Other definitions.** (1) In this Act, unless the context or subject matter otherwise requires:

"Certificate" means a certificate of stock in a corporation organized under the laws of this Territory or of any state whose laws are consistent with this Act.

"Delivery" means voluntary transfer of possession from one person to another.

"Person" includes a corporation or partnership of two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee or as pledgee.

"Purchaser" includes mortgagee and pledgee.

"Shares" means a share or shares of stock in a corporation organized under the laws of this Territory or of any state whose laws are consistent with this Act.

"State" includes state, territory, district and insular possession of the United States.

"Transfer" means transfer of legal title.

"Title" means legal title and does not include a merely equitable or beneficial ownership or interest.

"Value" is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor.

(2) A thing is done "in good faith" within the meaning of this Act when it is in fact done honestly, whether it be done negligently or not. [L. 1947, c. 124, s. 21.]

[**Sec. 8325.22.**] Section 22. **Act applies to existing certificates.** The provisions of this Act shall apply to certificates heretofore issued as well as to certificates issued after the taking effect of this Act. [L. 1947, c. 124, s. 22.]

[**Sec. 8325.23.**] Section 23. **Effect of invalidity.** The provisions of this Act are declared to be severable, and if any portion of this Act, or if the application of this Act or any portion thereof to any person, circumstance or property, is held invalid for any reason, the validity of the remainder of this Act, or the application of this Act or of such portion thereof to other persons, circumstances or property, shall not be affected. [L. 1947, c. 124, s. 23.]

[**Sec. 8325.24.**] Section 24. **Inconsistent legislation repealed.** All acts or parts of acts inconsistent with this Act are repealed, but nothing contained in this Act shall be deemed inconsistent with existing provisions of law relating to attachment of and levy on corporation stock. [L. 1947, c. 124, s. 24.]

Note: This section repeals (?) § **8325.**

[**Sec. 8325.25.**] Section 25. **Time when the Act takes effect.** This Act shall take effect upon its approval.

[**Sec. 8325.26.**] Section 26. **Name of Act.** This Act may be cited as the Uniform Stock Transfer Act. [L. 1947, c. 124, s. 26.]

(Approved May 16, 1947.) **S.B. 33, Act 124.**

Note: §§ **8332.01-.04,** added L. 1945, c. 228 (C-146), re annual meetings, etc., cumulative voting.

Series C-137: ACT 225

An Act Amending Section 8335 of the Revised Laws of Hawaii 1945, Relating to Corporation By-Laws and Procedure.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8335 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the comma after the word "members" appearing in the sixth line thereof and inserting thereafter the word "present".

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 342, Act 225.**

Note: As so amended, § 8335 reads:

Sec. 8335. By-laws; corporation procedure. The by-laws of a corporation may be adopted, amended or repealed by the vote of the holders of not less than a majority of all of the shares of stock outstanding, or if two or more classes of stock have been issued, of a majority of each class of stock outstanding and entitled to vote, or in case of a non-stock corporation, the majority of its members present at any meeting duly called and held, the notice of which shall have stated that a purpose of the meeting is to consider the adoption, amendment or repeal of the by-laws; **provided,** however, that by-laws may be adopted at the incorporation of a corporation by the signers of the articles of association; **provided** further, that the articles of association or charter or by-laws of any corporation may require the authorization or approval of a larger proportion of the stockholders or members, or of any class or classes thereof for the adoption, amendment or repeal of by-laws of the corporation, and also may impose any other restrictions on the adoption, amendment or repeal of by-laws and, in any such case, such provisions of the articles of association or charter or by-laws shall be complied with in order to effect any such adoption, amendment or repeal.

Every corporation shall keep in its principal office for the transaction of its business in the Territory the original or a copy of the by-laws as amended or otherwise altered to date, certified by the secretary or other proper officer, which shall be open to inspection by the stockholders or members at all reasonable times during office hours.

No person dealing with the corporation shall be charged with constructive notice of the by-laws. [C. C. 1859, s. 1431; R. L. 1925, s. 3355; R. L. 1935, s. 6741; am. L. 1939, c. 84, s. 1; R. L. 1945, s. 8335; am. L. 1947, c. 225, s. 1.]

Series C-138: ACT 104

An Act Authorizing Corporations and Joint Stock Companies to Make Donations, Grant Pensions, Retirement Allowances and Severance Pay.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8340.01.] Section 1. **[Charitable donations, pensions, by corporation.]** At any duly called meeting of the stockholders of a corporation or joint stock company organized under the laws of the Territory of Hawaii, donations for charitable purposes or to eleemosynary institutions, pensions to retired or disabled employees or to their dependents, or severance allowances may be authorized by the affirmative vote of the holders of a majority of the stock of any such corporation, present in person or by proxy at such meeting, whether such corporation is continuing in business or is being dissolved. Nothing contained in this Act shall affect the validity of any such action heretofore taken by any corporation. [L. 1947, c. 104, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **S.B. 39, Act 104.**

Series C-139: ACT 105

An Act to Authorize Fiduciaries to Vote in Favor of Retirement or Severance Pay or Allowances.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8340.02.] Section 1. **[Same; fiduciary may vote stock.]** Without incurring any individual liability, any trust company or other fiduciary, holding in trust for another, stock in any corporation, either domestic or foreign, may vote such stock in favor of donations for charitable purposes or to eleemosynary institutions, pensions to retired or disabled employees or to their dependents, or severance allowances to employees of any such corporation, whether the corporation is continuing in business or is being dissolved, whenever in the sole judgment and discretion of the fiduciary the retirement allowance or severance pay is justly due such employee by reason of faithful service or ill health or for any reason deemed satisfactory by the fiduciary or the donations or pensions are reasonable. Nothing contained in this Act shall affect the validity of any such action heretofore taken by any fiduciary. [L. 1947, c. 105, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 14, 1947.) **S.B. 40, Act 105.**

Series C-140: ACT 176

An Act to Amend Section 8352 of the Revised Laws of Hawaii 1945 Relating to Voluntary Dissolution of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8352 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"**Sec. 8352. Voluntary dissolution; certificate; notice; authority of treasurer.** Any corporation wishing to dissolve itself at any time before the expiration of its charter or articles of association, or within two years after such expiration, may present to the treasurer a petition requesting dissolution, together with a sworn certificate, signed by the president and secretary of the corporation, or by the presiding officer and secretary of the meeting at which the vote was taken, setting forth that the dissolution has been approved, at a meeting duly called for that purpose, by the holders of not less than three-fourths of all stock issued and outstanding and having voting power, or in the case of a non-stock corporation, by the vote of not less than three-fourths of the members present at said meeting. The articles of association or charter may require the authorization or approval of a larger proportion of the stockholders or members or the separate authorization and approval of three-fourths or a larger proportion of any class or classes of stockholders, and in any such case the authorization or approval of the larger number of stockholders or members shall be required as provided in such articles of association or charter."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 306, Act 176.**

Note: The balance of § 8352 reads:

Notice. In order to secure the attendance or representation by proxy of shareholders holding a sufficient number of shares at the meeting called for the purpose of approving the proposed dissolution of a corporation, due and diligent search for shareholders may be made by mailing the notice of the said meeting by registered mail to each stockholder at his latest address of record on the hooks of the corporation, and by publishing notice of the meeting in some newspaper of general circulation published in the Territory at least once in each of two successive weeks (two publications) naming each shareholder of the corporation, and after such mailing and publication each shareholder who fails to attend said meeting and also fails to acknowledge said notice shall be deemed to have approved at said meeting the dissolution of the corporation.

Treasurer's action. The treasurer shall enter the petition and certificate of record in his office and after publication of notice of the proposed dissolution in some newspaper of general circulation published in the Territory at least once in each of three successive weeks (three publications) shall proceed to consider the same, and when satisfied that the vote certified has been duly taken, shall declare the corporation then dissolved unless the corporation shall, at the time of filing the petition, have requested that said dissolution shall become effective on or as of some subsequent date, in which case said dissolution shall become effective on or as of the requested date. [C. C. 1859, s. 1439; am. L. 1923, c. 141, s. 1; R. L. 1925, s. 3370; R. L. 1935, s. 6754; am. L. 1935, c. 158, s. 1; am. L. 1939, c. 95, s. 1; am. L. 1941, c. 313, s. 1; R. L. 1945, s. 8352; am. L. 1947, c. 176, s. 1.]

Note: § **8438,** amended L. 1945, c. 223 (C-147), re fiduciary loans. See **L. 1947,** c. 130 (C-150), post re common trust fund act. §§ **8445.01-.14,** added L. 1945, c. 197 (C-148), Fiduciaries Act. § **8460,** amended L. 1945, c. 240 (C-149), fees.

Chapter 161. INSURANCE COMPANIES AND INSURANCE LAW.

Series C-141: ACT 89

An Act Amending Chapter 161 of the Revised Laws of Hawaii 1945, Relating to Insurance.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 161 of the Revised Laws of Hawaii 1945 is hereby further amended in the following respects:

(a) By amending **section 8461** thereof:

(1) By amending the definition of "Alien company" to read as follows:

" 'Alien company' designates an insurance company organized under the laws of or with its home office located within any country other than the United States or any political subdivision thereof;".

(2) By amending the definition of a "Foreign company" to read as follows:

" 'Foreign company' designates an insurance company organized under the laws of any state, or territory other than the Territory of Hawaii, or of the District of Columbia or of any insular possession of the United States;".

Note: This and the following sections are rewritten in the note following this Act. § **8463,** amended **L. 1947,** c. 90 (C-142), following this Act. § **8486,** amended **L. 1947,** c. 90 (C-142). § **8487,** amended L. 1945, c. 240 (C-149).

(b) By amending the last paragraph of subsection (d) of **section 8490.01,** to read as follows:

"As used in this section, the term 'state' means and includes any state, territory (the Territory of Hawaii excluded) or insular possession of the United States and the District of Columbia."

Note: § **8504** (3), amended L. 1945, c. 240 (C-149); § **8506** (2), amended L. 1945, c. 240 (C-149).

(c) By amending subparagraph (3) of paragraph 3 of **section 8514** thereof, to read as follows:

"(3) A company may write or print upon the margin or across the face of a policy, or write or print in type not smaller than nonpareil, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form, which shall not be in conflict with the provisions of the standard form, and all slips, riders and provisions must be signed by the officers or agents of the company so using them."

(d) By amending the title and subsections 1, 3 and 5 of **section 8516,** to read as follows:

"**Sec. 8516. Adjustor's license; fee; revocation.** 1. No person other than a licensed agent or a licensed adjustor, except as hereinafter stated in subsection 5 hereof, shall make any adjustment for loss or damage unless he shall hold a license from the commissioner under this section.

3. The license shall be revoked by the commissioner if, after due investigation and hearing, he determines that the holder of the license has dealt unjustly with or wilfully deceived any insured or insurer or has violated any provision of the insurance law. No person whose license is so revoked, shall be granted any other license under this section for a period of one year thereafter, nor shall he until again so authorized act as an employee or participate in the profits of any adjustor.

5. This section shall apply to and include all persons who act in the capacity specified in subsection 1 of this section for any insurance company or insured and to all persons who act as advisers to or adjustors for the insured for compensation in the case of any loss or damage, excepting persons acting as attorneys in the ordinary relation of attorney and client, and excepting appraisers acting with an adjustor, and also excepting persons acting for self-insurers, self-administered group plans or the like."

(e) By repealing subsection 6 of **Section 8516** thereof.

Note: §§ **8517-19,** repealed **L. 1947,** c. 61 (C-146), post. § **8520,** amended L. 1947, c. 61 (C-146), post. §§ **8521-23,** repealed **L. 1947,** c. 61 (C-146), post.

(f) By amending Section 8524 thereof, to read as follows:

"**Sec. 8524. Information to be given to insured; notice.** Every fire insurance policy covering property situated in the Territory shall have printed on the back thereof in type not smaller than nonpareil, the following notice:

'NOTICE

Required by Hawaii Insurance Law.

Upon request made to the agent issuing this policy, the insured under this policy, or his representative, shall be promptly furnished with:

a. A detailed statement of the rate or rates at which this policy is written;

b. Suggestions, if any, whereby the rate or rates charged in this policy may be decreased; and

c. A copy of a survey of the property covered by this policy, if such a survey is on file either in the office of the agent issuing this policy, or of a rate making bureau of which such agent is a member.'" [L. 1917, c. 115, s. 48; am. L. 1919, c. 100, s. 4; R. L. 1945, s. 8524; am. L. 1947, c. 89, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 94, Act 89.**

Note: As amended §§ 8461, 8490.01, 8514 and 8516 now read:

Sec. 8461. Insurance terms defined. In this chapter unless the context required otherwise:

"**Adjustor**" designates an agent, or any other person who acts for or on behalf of a company or of the insured, in determining and making settlement of the amount payable to the insured for any loss or damage under the policy;

"**Alien company**" designates an insurance company organized under the laws of or with its home office located within any country other than the United States or any political subdivision thereof;

"**Authorized company**" designates a company authorized to transact the business of insurance in the Territory;

"**Commissioner**" designates the insurance commissioner of the Territory;

"**Company**" designates a corporation, association, partnership or individual engaged in the business of insurance;

"**Direct insurance**" designates the insurance effected by the policy or other contract between the company and the insured;

"**Domestic company**" designates an insurance company organized in the Territory;

"**Firm**" designates a partnership or association engaged in the business of insurance;

"**Foreign company**" designates an insurance company organized under the laws of any state, or territory other than the Territory of Hawaii, or of the District of Columbia or of any insular possession of the United States;

"General agent" designates a corporation, association, partnership or individual, or an officer, member or employee of a corporation, association, partnership or individual, who is authorized by and on behalf of an insurance company to accept service of process in legal proceedings and to appoint subagents, solicitors, and otherwise transact the business of insurance, and who holds a direct agency appointment from any authorized insurance company; and shall also include the manager or other person in charge in the Territory of any branch office in the Territory of any foreign or alien company;

"Insurance" is an agreement whereby one party called the insurer for a consideration promises to pay money or its equivalent, or to do an act valuable to another person called the insured or to his beneficiary, upon the destruction, loss or injury of something in which the insured or his beneficiary has an interest;

"Nonresident agent" designates a natural person, resident in any state of the United States, who has been licensed to solicit or place insurance, other than life insurance, by the proper insurance authority in the state in which said person is a resident, and who has procured a nonresident agent's license in the Territory to solicit or place insurance, other than life insurance, in accordance with the applicable provisions of this chapter;

"Reinsurance" designates the insurance ceded and accepted between two companies, one of which has effected the direct insurance;

"Retrocession" includes the insurance ceded and accepted between two companies, neither of which has affected the direct insurance;

"Solicitor" designates a natural person who for compensation aids a general agent or a subagent in the transaction of the business of insurance;

"Subagent" designates a corporation, association, partnership or individual, or an officer, member or employee thereof, who is authorized by and on behalf of a general agent to transact the business of insurance, and who holds a sub-agency appointment from any general agent licensed in the Territory;

"Unauthorized company" designates a company which is not, at the time in question, authorized to transact the business of insurance in the Territory;

"Bureau" means the insurance bureau in the department of the territorial treasurer. [L. 1917, c. 115, s. 1; R. L. 1925, s. 3415; am. L. 1925, c. 122, s. 1; am. L. 1933, c. 158, s. 1; R. L. 1935, s. 6790; am. L. 1939, c. 263, s. 1 (a); R. L. 1945, s. 8461; am. L 1947, c 89, s. 1.]

Sec. 8490.01. Restrictions on the powers of insurance of domestic companies. Subject to the exceptions herein set forth, no domestic company shall enter into a contract of insurance upon the life or person of a resident of, or property or operations located in, a reciprocal state unless it has qualified itself for the doing of business in that state and is authorized pursuant to the laws of that state to transact such insurance therein.

The exceptions to the provisions of this section are the following:

(a) Contracts entered into where the prospective insurant is present in the Territory of Hawaii, or is present in a state in which the domestic insurance company is qualified and authorized to transact insurance, when signing the application.

(b) Contracts of reinsurance.

(c) The issuance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in the Territory of Hawaii or in a state in which the domestic insurance company was then qualified and authorized to transact insurance.

(d) The renewal or continuance in force, with or without modification, of insurance contracts otherwise lawful and which were not originally executed in violation of this section.

As used in this section, the term "reciprocal state" means a state the laws of which prohibit an insurer domiciled therein from insuring the lives or persons of residents of, or property or operations located in, the Territory of Hawaii unless it then holds a valid and subsisting certificate of authority issued by the insurance commissioner of the Territory of Hawaii. The prohibition in said laws may be subject to the exceptions hereinabove set forth. The insurance commissioner, upon the application of any domestic insurance company, shall inform the said company whether or not any particular state is a reciprocal state.

As used in this section, the term "state" means and includes any state, territory (the Territory of Hawaii excluded) or insular possession of the United States and the District of Columbia. [L. 1945, c. 240, s. 1 (3); am. L. 1947, c. 89, s. 1.]

Sec. 8514. Standard fire insurance policy. 1. New York form. The standard fire insurance policy of the State of New York, as authorized and in effect in the State of New York, on December 31, 1943, is established as the standard form of fire insurance policy for the Territory, and no fire insurance policy shall be issued in the Territory in any other than the aforesaid form with such additions as are allowed by the terms of this chapter; **provided,** that nothing herein shall affect the validity of any policy otherwise valid or of any claim thereunder against an insurance company; **provided** further, that this subsection shall not refer to or include policies written upon automobiles.

2. To be kept on file. The insurance commissioner shall procure from the superintendent of insurance for the state of New York a certified copy of that standard form which he shall at all times keep on file in his office.

3. Approval of commissioner. Each fire insurance company shall submit to the commissioner a copy of the fire insurance policy which it will issue in the Territory, and shall secure his approval thereof. Before approving any policy, and before issuing a certificate of authority to a company entering the Territory, the commissioner shall ascertain and if necessary, order, that the policy which the company will issue shall: (a) Be plainly printed, and (b) conform to the wording of the standard form on file in his office except as provided in section 8524, and except as follows:

(1) A company may print on or in its policies its name, location of its principal office and date of incorporation, the amount of its paid-in capital stock, the amount of subscribed capital if separately stated, the names of its officers and agents, the number and date of the policy, and if it be issued through an agent, the words: "This policy shall not be valid until countersigned by the duly authorized manager or agent of the company at....."

(2) A company may use in its policies written, typewritten or printed forms of description and specifications of the property insured.

(3) A company may write or print upon the margin or across the face of a policy, or write or print in type not smaller than nonpareil, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form, which shall not be in conflict with the provisions of the standard form, and all slips, riders and provisions must be signed by the officers or agents of the company so using them.

(4) Every mutual company shall cause to appear in the body of its policy the total amount for which the assured may be liable under the charter or articles of association of the company.

(5) The company may print on or in its policy with the approval of the commissioner, if the same is not already included in the standard form, any provision which any corporation is required by law to insert in its policies not in conflict with the provisions of the standard form. The provision shall be printed apart from the other provisions, agreements or conditions of the policy under a separate title as follows: "Provisions required by law to be inserted in this policy."

(6) **Riders.** A rider or riders may be attached to a standard policy already in force, insuring against any or all additional hazards which may by law be the subject of insurance, on the condition that the rider state separately the premium, if any, for the hazards specified in the rider, and provide for cancellation as to the hazards if actually removed, without prejudice to the remaining insurance.

(7) **Underwriter.** If the policy be made by a company operating on the plan known as "Lloyd's," it shall have the name and address of each underwriter on the back of the policy.

(8) **Noon defined.** Unless otherwise defined in the policy, the word "noon" shall be construed to mean the noon of standard time of the place where the property covered by the policy is situated. [L. 1917, c. 115, s. 37; am. L. 1919, c. 100, s. 3; R. L. 1925, s. 3451; R. L. 1935, s. 6827; am. L. 1943, c. 194, s. 1; R. L. 1945, s. 8514; am. L. 1945, c. 240, s. 1 (6); am. L. 1947, c. 89, s. 1 (c).]

Sec. 8516. Adjustor's license; fee; revocation. 1. No person other than a licensed agent or a licensed adjustor, except as hereinafter stated in subsection 5 hereof, shall make any adjustment for loss or damage unless he shall hold a license from the commissioner under this section.

2. A license, expiring on April 15 next following its date, may be issued to any person filing an application on a form prescribed and furnished by the commissioner and upon the payment of a license fee of one dollar.

3. The license shall be revoked by the commissioner if, after due investigation and hearing, he determines that the holder of the license has dealt unjustly with or wilfully deceived any insured or insurer or has violated any provision of the insurance law. No person whose license is so revoked, shall be granted any other license under this section for a period of one year thereafter, nor shall he until again so authorized act as an employee or participate in the profits of any adjustor.

4. A person shall not be held to violate this section by making his first adjustment during a license year prior to obtaining such license; **provided** that he shall, within two days after entering upon the adjustment, make application therefor, and shall in all other respects comply with this section.

5. This section shall apply to and include all persons who act in the capacity specified in subsection 1 of this section for any insurance company or insured and to all persons who act as advisers to or adjustors for the insured for compensation in the case of any loss or damage, excepting persons acting as attorneys in the ordinary relation of attorney and client, and excepting appraisers acting with an adjustor, and also excepting persons acting for self-insurers, self-administered group plans or the like. [L. 1917, c. 115, s. 40; R. L. 1925, s. 3454; R. L. 1935, s. 6830; R. L. 1945, s. 8516; am. L. 1947, c. 89, s. 1 (d).]

Series C-142: ACT 90

An Act Amending Chapter 161 of the Revised Laws of Hawaii 1945, Relating to the Business of Insurance.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 161 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By adding to **section 8463,** after the definition "Fire", a new paragraph reading as follows:

"**Replacement.** Insurance on buildings and building service equipment pertaining thereto and a part thereof, and machinery, tools and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, except household furniture and furnishings in dwelling houses, for the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding or replacing with new materials of like size, kind and quality, such property as has been damaged or destroyed by fire or other peril insured against; and also, insurance against the cost of demo-

lition or reconstruction, or both, of any portion of the insured premises which has not suffered damage and the additional cost of repair or reconstruction, or both, of portions of the insured premises which have suffered damage, necessary to comply with applicable laws or ordinances."

(2) By amending section 8486 to read as follows:

"Sec. 8486. Over-insurance and over-payment of loss prohibited; penalties. No insurance company, general agent, subagent or solicitor shall knowingly and wilfully make or effect any insurance against loss or damage to property in the Territory, which, together with any insurance of the same kind already in force upon the property, shall be in excess of the cash value of the property insured. No insurance company, general agent, subagent, solicitor or adjustor shall knowingly and wilfully adjust, allow or pay for any loss or damage to property any sum in excess of the actual loss and damage ascertained or estimated according to the actual cash value. Any company, general agent, subagent, solicitor or adjustor violating this section shall be penalized for the first offense one hundred dollars, to be paid to the treasurer of the Territory, through the commissioner, which sum shall be sued for and collected as in case of other forfeitures and become general territorial realizations; for the second offense, in addition to the penalty of one hundred dollars, its certificate of authority, agent's license or adjustor's license, as the case may be, may be cancelled. This section shall not apply to replacement insurance as defined in section 8463 or to insurance against liability or to insurance against loss or damage other than to property." [L. 1917, c. 115, s. 24; R. L. 1935, s. 6813; am. L. 1939, c. 263, s. 1 (r); R. L. 1945, s. 8486; am. L. 1947, c. 90, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 96, Act 90.**

Note: As amended by Acts 60 (C-145), 61 (C-146) and 90 (C-142) of **L. 1947,** § 8463 reads:

Sec. 8463. Kinds of insurance. All domestic, foreign and alien insurance companies now or hereafter authorized to do business in the Territory may write all kinds of insurance authorized by law and by its legally authorized powers included in its charter, articles of association or other controlling instrument. The following definitions include the principal classes of insurance:

Accident, health and disability. Insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto.

Motor vehicle. Motor vehicle insurance includes insurance of owners, users, dealers, or others having insurable interests therein against hazards incident to ownership, maintenance, operation and use of motor vehicles

and incidentally related equipment, including loss resulting from accident or physical injury, fatal or non-fatal, to, or death of, any natural person.

Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, or robbery.

Fidelity, surety and guaranty bonds. Becoming surety or guarantor for any person, copartnership, or corporation in any position of trust or as custodian of money or property, public or private; or becoming surety or guarantor for the performance of any person, copartnership or corporation of any lawful obligation, undertaking, agreement or contract of any kind, except contracts or policies of insurance; and underwriting blanket bonds; and losses arising from forgery, fraud or other illegal or dishonest acts.

Fire. Insurance against loss or damage to property and loss of use and occupancy, rents and expected profits, by fire, lightning, hail, tempest, flood, earthquake, frost, or snow, explosion fire ensuing; explosion no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing, or their fixtures, erected for extinguishing fires, and against accidental injury to sprinklers, pumps, other apparatus, water pipes, plumbing or fixtures; and also insurance against risks which are included under fire insurance used in its generally accepted trade sense.

Replacement. Insurance on buildings and building service equipment pertaining thereto and a part thereof, and machinery, tools and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, except household furniture and furnishings in dwelling houses, for the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding or replacing with new materials of like size, kind and quality, such property as has been damaged or destroyed by fire or other peril insured against; and also, insurance against the cost of demolition or reconstruction, or both, of any portion of the insured premises which has not suffered damage and the additional cost of repair or reconstruction, or both, of portions of the insured premises which have suffered damage, necessary to comply with applicable laws or ordinances.

Glass. Insurance against loss or damage to glass including lettering, ornamentation, and fittings.

Liability. Liability insurance includes insurance against loss resulting from liability for injury, fatal or nonfatal, suffered by any natural person, or resulting from liability for damage to property, or property interests of others but not including workmen's compensation, boiler and machinery insurance, nor including any insurance defined under motor and vehicle insurance.

Life. Life insurance includes insurance upon the lives of persons and insurance appertaining thereto, and incidental related benefits, and the granting, purchasing or disposing of endowments and annuities.

Livestock. Insurance against loss or damage by theft, injury, sickness or death of animals, and the furnishing of veterinary service.

Marine. Insurance upon vessels, freight, goods, money, effects and money lent on bottomry or respondentia against the perils of the sea, including inland transit or transportation, also war risks, strikes and other perils insured against by marine insurance.

Steam boiler and fly wheel. Insurance against loss or liability to persons or property resulting from explosions or accidents to steam boilers, engines or machinery connected therewith, and from breakage of fly wheels or machinery, and to make and certify inspections thereof.

Title. Insurance against loss from defective titles.

Use and occupancy and profits. Insurance against loss from interruption of trade or business which may be the result of any accident or casualty other than those which may result from the causes contained under the heading of fire.

Workmen's compensation. Workmen's compensation insurance includes insurance against loss from liability imposed by law upon employers to compensate employees and their dependents for injury sustained by employees arising out of and in the course or scope of the employment.

Miscellaneous. Insurance against loss or damage by any hazard upon any risk, not provided for in this section, which is not prohibited by law from being the subject of insurance.

Similar kinds of insurance in different classes. Except as otherwise stated, the enumeration in this chapter of the kinds of insurance in a particular class does not limit any such kind to any one of such particular classes, inasmuch as the classification of similar insurance may vary with the subject matter, risk, and connected insurance; but the fact that similar kinds of insurance occur in different classes does not extend or change the scope of any such class. [L. 1917, c. 115, s. 3; R. L. 1925, s. 3417; R. L. 1935, s. 6792; am. L. 1939, c. 263, s. 1 (b); R. L. 1945, s. 8463; am. L. 1947, c. 90, s. 1 and c. 60, s. 19 and c. 61, s. 18.]

Note: § **8486,** supra, **L. 1947,** c. 90 (C-142). § **8487,** amended **L. 1945,** c. 240 (C-149); § **8490.01,** amended **L. 1947,** c. 89 (C-141); §§ **8504, 8506,** amended L. 1945, c. 240 (C-149); §§ **8514, 8516,** amended **L. 1947,** c. 89 (C-141); §§ **8517-19, 8521-23,** repealed **L. 1947,** c. 61 (C-146); § **8520,** amended **L. 1947,** c. 61 (C-146); § **8524,** amended **L. 1947,** c. 89 (C-141); § **8533.01,** added L. 1945, c. 166 (C-150).

Series C-143: ACT 221

An Act Amending Sections 8541, 8542 and 8544, Chapter 161 of the Revised Laws of Hawaii 1945, Relating to the Loan Values, Non-Forfeiture Benefits and the Valuation of Life Insurance Policies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 161 of the Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By amending sub-paragraphs 6 and 7 of **section 8541** to read as follows:

"**6. Loans.** A provision that after the policy has been in force three full years, the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the insured less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 8544, less a sum of not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from the loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that the loan may be deferred for not exceeding six months after the application therefor is made. This provision shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

7. **Default.** A provision that in event of default in premium payments, after premiums shall have been paid for three years, the insured shall be entitled to a stipulated form of insurance the net value of which shall be at least equal to the reserve at the date of default on the policy and on dividend additions thereto, if any, computed according to a mortality table, interest rate, and method of valuation permitted by section 8544, less a specified percentage (not more than two and one-half) of the amount insured by the policy and of existing dividend additions thereto, if any, and less any existing indebtedness to the company on or secured by the policy; **provided,** that if the benefits under the

policy are calculated according to a more modern table than the American Experience Table of Mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding 130% of the rates according to such more modern table; **provided,** further, that the policy may be surrendered to the company at its home office within one month of date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid; and **provided,** further, that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurance of twenty years or less."

[See end of this Act for rewritten § 8541.]

(2) By amending subsection 1 of **section 8542,** to read as follows:

"1. Any policy of life insurance may contain a provision that, upon the non-payment of any premium when due, after payment of premiums for not exceeding three full years, the same shall be paid by being charged as a loan against the policy; **provided** the loan value thereon after deducting all outstanding loans and interest against a policy shall be sufficient to cover the amount of the premium, together with such charges and subject to such conditions as shall be stipulated in the policy and duly approved by the insurance department of the domicile of the company issuing it, anything in this chapter to the contrary notwithstanding."

[Rewritten § 8542 at end of this Act.]

(3) By amending section 8544 to read as follows:

"Sec. 8544. Life insurance policies, valuation. 1. No life insurance company shall issue any policy in the Territory at any time when its assets shall not equal all its reserves and other liabilities including its outstanding capital stock. 2. The reserve liabilities of a life insurance company shall be determined as follows:

(a) As to outstanding policies in companies upon April 21, 1917, or theretofore authorized in the Territory, the basis and method theretofore used shall continue to be so used;

(b) As to policies thereafter issued and all policies of companies not upon April 21, 1917, or theretofore authorized in the Territory, the minimum basis for such determination shall be the American Experience Table of Mortality and a rate of interest assumed not to be more than four per centum per annum, and the net

level premium method of valuation shall be used; **provided** that, at the option of the company, a modified term method of valuation may be used whereby the reserve for the first year of insurance shall be reduced by an amount not exceeding the net level premium reserve at the end of such first year on a twenty payment life policy issued at the same age and on the same basis, and the reserves for subsequent years shall be adjusted accordingly; or, at the option of the company, the so-called commissioners reserve valuation method may be used as to policies issued on or after the effective date of this act.

3. Policies of disability, old age or annuity insurance or providing for any other benefit shall be valued to require reserves providing fully for all liabilities created by the promise of the benefits.

4. At the option of the company, reserve may be computed according to any mortality table, interest rate and method of valuation producing greater aggregate net values than those herein prescribed.

5. If the actual premium is less than the net premium required for the insurance the reserves shall be increased by the present value of the deficiency in the actual premiums.

6. The commissioner shall make such valuations annually on or before March 1, for the end of the calendar year preceding and reserves providing fully for all liabilities shall be carried as liabilities in the annual statement of the company.

7. Every company shall pay a fee of one cent per thousand dollars of insurance so required to be valued; **provided** that the commissioner may in lieu of making the valuation and receiving the fee accept a certificate of valuation made by the proper officer of some insurance department of the United States." [L. 1917, c. 115, s. 53; R. L. 1945, s. 8544; am. L. 1947, c. 221, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 22, 1947.) **S.B. 369, Act 221.**
Note: As so amended, § 8541 reads:

Sec. 8541. Standard life insurance provisions required, industrial excepted. No policy of life insurance other than industrial insurance annuities and pure endowments with or without return of premiums shall be issued or delivered in the Territory or be issued by a life insurance company organized under the laws of the Territory, unless the same shall contain in substance the following provisions:

1. **Premiums.** A provision that all premiums after the first shall be payable in advance either at the home office of the company or to an agent

of the company, upon delivery of a receipt signed by one or more of the officers who shall he designated in the policy.

2. **Grace.** A provision that the insured is entitled to a grace either of thirty days or one month within which the payment of any premium after the first year may be made, subject at the option of the company to an interest charge not in excess of six per centum per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in full force, but in case the policy becomes a claim during the period of grace before the overdue premium or the deferred premiums, of the current policy year, if any, are paid, the amount of the premiums, with interest on any overdue premium, may be deducted from any amount payable under the policy in settlement.

3. **Scope of contract; incontestability.** A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after it has been in force during the life time of the insured for a period of two years from its date, except for non-payment of premiums and except for violations of the conditions of the policy relating to naval or military service; that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties; and that no such statement or statements shall be used in defense of a claim under the policy unless contained in a written application and unless a copy of the statement or statements be endorsed upon or attached to the policy when issued.

4. **Misstatement of age.** A provision that if it shall be found out at any time before final settlement under a policy that the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age, or a provision that the premium may be adjusted and credit given to the insured or to the company according to the company's published rate at date of issue.

5. **Participation in surplus.** A provision that the policy shall participate in the surplus of the company, and any policy containing provisions for participation at the end of the first policy year, and annually thereafter, may also provide that each dividend shall be paid subject to the payment of the premium for the next ensuing year; and the insured under any annual dividend policy shall have the right each year to have the dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide which of the options shall be effective if the insured shall not elect any option on or before the expiration of the period of grace allowed for the payment of the premium.

This provision shall not apply to any form of paid-up insurance or temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies, or to non-participating policies.

6. **Loans.** A provision that after the policy has been in force three full years, the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of

the insured less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 8544, less a sum of not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from the loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that the loan may be deferred for not exceeding six months after the application therefor is made. This provision shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

7. **Default.** A provision that in event of default in premium payments, after premiums shall have been paid for three years, the insured shall be entitled to a stipulated form of insurance the net value of which shall be at least equal to the reserve at the date of default on the policy and on dividend additions thereto, if any, computed according to a mortality table, interest rate, and method of valuation permitted by section 8544, less a specified percentage (not more than two and one-half) of the amount insured by the policy and of existing dividend additions thereto, if any, and less any existing indebtedness to the company on or secured by the policy; **provided,** that if the benefits under the policy are calculated according to a more modern table than the American Experience Table of Mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding 130% of the rates according to such more modern table; **provided,** further, that the policy may be surrendered to the company at its home office within one month of date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid; and **provided,** further, that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurance of twenty years or less.

8. **Options.** A provision specifying the options to which the policyholder is entitled in the event of default in a premium payment after three full annual premiums shall have been paid. This provision shall not be required in term insurance of twenty years or less. A provision may also be inserted in the policy that in event of default in a premium payment before the options become available the reserve on any dividend additions then in force may at the option of the company be paid in cash or applied as a net premium to the purchase of paid-up term insurance for any amount not in excess of the face of the original policy.

9. **Tables.** A table showing in figures the loan values and the options available under the policy each year upon default in premium payments, during at least the first twenty years of the policy or during the premium paying period if less than twenty years.

10. **Reinstatement.** A provision that if in event of default in premium payments the value of the policy shall have been applied to the purchase of other insurance as provided for in this section, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from the default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums and the payment of reinstatement of any other indebtedness to the company upon the policy, with interest at the rate of not exceeding six per centum per annum.

11. **Death claims.** A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and of the interest of the claimant, and not later than two months after the receipt of such proof.

12. **Instalments.** A table showing the amount of instalments, if any, in which the policy may provide its proceeds may be payable.

13. **Title.** Title on the face and on the back of the policy, briefly describing the same.

Applicability. Any of the foregoing provisions or portions thereof not applicable to single premium or non-participating or term policies shall to that extent not be incorporated therein; and any policy may be issued or delivered in the Territory which in the opinion of the commissioner contains provisions on any one or more of the several foregoing requirements more favorable to the policyholder than hereinbefore required. The provisions of this section shall not apply to policies of re-insurance. [L. 1917, c. 115, s. 50; R. L. 1925, s. 3464; R. L. 1935, s. 6840; R. L. 1945, s. 8541; am. L. 1945, c. 240, s. 1 (7); am. L. 1947, c. 221, s. 1.]

Note: As so amended, § 8542 reads:

Sec. 8542. Life insurance provisions; optional. 1. Any policy of life insurance may contain a provision that, upon the non-payment of any premium when due, after payment of premiums for not exceeding three full years, the same shall be paid by being charged as a loan against the policy; **provided** the loan value thereon after deducting all outstanding loans and interest against a policy shall be sufficient to cover the amount of the premium, together with such charges and subject to such conditions as shall be stipulated in the policy and duly approved by the insurance department of the domicile of the company issuing it, anything in this chapter to the contrary notwithstanding.

2. Any policy of life insurance containing privileges to the insured in addition to those enumerated in this section may be issued in the Territory; **provided** only that the form thereof has been filed with and duly approved by the insurance department of the domicile of the company issuing it, anything in this chapter to the contrary notwithstanding. [L. 1917, c. 115, s. 51; R. L. 1925, s. 3465; R. L. 1935, s. 6841; R. L. 1945, s. 8542; am. L. 1947, c. 221, s. 1.]

Note: § **8544,** amended, supra, **L. 1947,** c. 221 (C-143); § **8545,** amended L. 1945, c. 240 (C-149).

Series C-144: ACT 182

An Act Relating to the Effect of Payments Under Life Insurance Policies, as Defined, and Assignments thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8546.01.] Section 1. **Effect of payments without notice.** When any proceeds of, or any payments under, any policy or contract of life insurance become payable, and the insurance company makes payment thereof in accordance with the terms of the policy or contract, or in accordance with the terms of any written assignment or transfer thereof, if the policy or contract has been assigned or transferred, such payment shall fully discharge such company from all claims under such policy, contract, assignment or transfer, unless, before such payment is made, such company has received, at its home office, written notice by or on behalf of some other person having a bona fide legal claim that such other person claims to be entitled to such payment or some interest in the policy or contract. If such payment is made prior to receipt of such a notice, the company making the payment shall be so discharged whether or not such adverse claim is based upon the source of the premiums or consideration money. The person or persons designated in such policy, contract, assignment or transfer as being entitled to such payment or payments, and to whom payment is made, shall be entitled to receive such payment or payments and give full acquittance therefor. [L. 1947, c. 182, s. 1.]

[Sec. 8546.02.] Section 2. **Effect of assignments without notice.** When a policy or contract of life insurance is assigned or transferred in writing, such company may deal with the assignee or transferee in any manner not inconsistent with the terms of said assignment or transfer until such company has received at its home office written notice by or on behalf of some other person having a bona fide legal claim that such other person claims to be entitled to some interest in such policy or contract. [L. 1947, c. 182, s. 2.]

[Sec. 8546.03.] Section 3. **Other policies affected.** Annuity or endowment policies or contracts, and policies or contracts of accident, health and/or disability insurance providing for death benefits, as to such death benefits, shall be deemed to be life insurance policies or contracts under the terms of, and for the purposes of, this Act, and shall be subject to sections 1 and 2 of this Act. [L. 1947, c. 182, s. 3.]

[Sec. 8546.04.] Section 4. **Rights of claimants between themselves preserved.** Nothing contained in sections 1, 2 and 3 of this Act shall affect any claim or right to any policy or contract or the proceeds thereof, or payments thereunder, as between all persons other than the insurance company or companies. [L. 1947, c. 182, s. 4.]

[Sec. 8546.05.] Section 5. **Section 8545 is not repealed or amended.** This Act shall not be deemed to repeal or in any way affect section 8545 of the Revised Laws of Hawaii 1945. [L. 1947, c. 182, s. 5.]

Section 6. Effective date. This Act shall take effect on its approval.

(Approved May 19, 1947.) **S.B. 340, Act 182.**

[CHAPTER 161A. CASUALTY INSURANCE RATES AFFECTING MOTOR VEHICLES.]

Series C-145: ACT 60

An Act Relative to the Regulation of Rates for Certain Casualty Insurance Including Fidelity, Surety and Guaranty Bonds and for All Other Forms of Motor Vehicle Insurance, and to Rating Organizations, Repealing All Laws Inconsistent with this Act, Amending Section 8463 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8551.01.] Section 1. **Purpose of Act.** The purpose of this Act is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Act. Nothing in this Act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This Act shall be liberally interpreted to carry into effect the provisions of this section. [L. 1947, c. 60, s. 1.]

[Sec. 8551.02.] Section 2. **Scope of Act.** This Act applies to casualty insurance (1), including fidelity, surety and guaranty bonds, and to all other forms of motor vehicle insurance, on risks or operations in this Territory, except:

(a) reinsurance, other than joint reinsurance to the extent stated in section 11;

(b) accident, health and disability insurance;

(c) insurance against loss of or damage to aircraft or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

Casualty insurance is used herein in its generally accepted trade sense.

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this Act, is also subject to regulation by another rate regulatory act of this Territory, an insurer to which both acts are otherwise applicable shall file with the insurance commissioner, hereinafter referred to as commissioner, a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage. [L. 1947, c. 60, s. 2.]

[Sec. 8551.03.] Section 3. **Making of rates.** (a) All rates shall be made in accordance with the following provisions:

1. Due consideration shall be given to past and prospective loss experience within and outside this Territory, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both country-wide and those specially applicable to this Territory, and to all other relevant factors within and outside this Territory.

2. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

4. Rates shall not be excessive, inadequate, or unfairly discriminatory.

(b) Except to the extent necessary to meet the provisions of subdivision 4 of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited. [L. 1947, c. 60, s. 3.]

[**Sec. 8551.04.**] Section 4. **Rate filings.** (a) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of the Act, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided, that nothing contained in this Act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this Act.

(d) Subject to the exception specified in subsection (e) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this Act unless disap-

proved by the commissioner within the waiting period or any extension thereof.

(e) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this Act until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision 4 of subsection (a) of section 3.

(g) Upon the written application of the insured, stating his reasons therefore, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(h) Beginning ninety days after the effective date of this Act no insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in this Act or in accordance with subsection (f) or (g) of this section. [L. 1947, c. 60, s. 4.]

[Sec. **8551.05.**] Section 5. **Disapproval of filings.** (a) If within the waiting period or any extension thereof as provided in subsection (d) of section 4, the commissioner finds that a filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this Act and stating that such filing shall not become effective.

(b) If within thirty days after a special surety or guaranty filing subject to subsection (e) of section 4 has become effective, the commissioner finds that such filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this Act and stating when, within a reasonable period thereafter, such filing shall

be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this Act, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, **provided,** however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing.

If, after such hearing, the commissioner finds that the filing does not meet the requirements of this Act, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(e) No manual of classifications, rules, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 4 of this Act shall be disapproved if the rates thereby produced meet the requirements of this Act. [L. 1947, c. 60, s. 5.]

[Sec. 8551.06.] Section 6. **Rating organizations.** (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this Territory, may make application to the commissioner for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this Territory upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the commissioner after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this Territory designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish

its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this Act is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this Act which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice. [L. 1947, c. 60, s. 6.]

[**Sec. 8551.07.**] Section 7. **Deviations.** Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or

for a subdivision of a kind of insurance (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (2) for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner. [L. 1947, c. 60, s. 7.]

[Sec. 8551.08.] Section 8. **Appeal by minority.** Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings, within a reasonable time after the issuance of such order.

If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subdivision 2 of subsection (a) of section 3, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall,

if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 3. [L. 1947, c. 60, s. 8.]

[Sec. 8551.09.] Section 9. **Information to be furnished insureds; hearings and appeals of insureds.**

Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefore and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it or to the authorized representative of such insured, all pertinent information as to such rate.

Every rating organization and every insurer which makes its own rates shall provide within this Territory reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action. [L. 1947, c. 60, s. 9.]

[Sec. 8551.10.] Section 10. **Advisory organizations.** (a) Every group, association or other organization of insurers, whether located within or outside this Territory, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this Act, shall be known as an advisory organization.

(b) Every advisory organization shall file with the commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this Territory upon whom notices or orders of the commissioner or process issued at his direction may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 12 of this Act.

(c) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation. [L. 1947, c. 60, s. 10.]

[Sec. 8551.11.] Section 11. **Joint underwriting or joint reinsurance.** (a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this Act and, with respect to joint reinsurance, to sections 12 and 16 to 20 of this Act.

(b) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice. [L. 1947, c. 60, s. 11.]

[Sec. 8551.12.] Section 12. **Examinations.** The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this Territory as provided in section 6 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 10 and of each group, association or other organization referred to in section 11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books,

records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of any state, pursuant to the laws of such state. [L. 1947, c. 60, s. 12.]

[Sec. 8551.13.] Section 13. **Rate administration.** (a) Recording and reporting of loss and expense experience. The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this Territory and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states and the Territory, to the rules and to the form of the plans used for such rating systems in the states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

(b) Interchange of rating plan data. Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) Consultation with any states. In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in any state and may consult with them with respect to rate making and the application of rating systems.

(d) Rules and regulations. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this Act. [L. 1947, c. 60, s. 13.]

[Sec. 8551.14.] Section 14. **False or misleading information.** No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this Act. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 16 of this Act. [L. 1947, c. 60, s. 14.]

[Sec. 8551.15.] Section 15. **Assigned risks.** Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner. [L. 1947, c. 60, s. 15.]

[Sec. 8551.16.] Section 16. **Penalties.** The commissioner may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than fifty dollars ($50) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars ($500) for each such violation. Such penalties may be in addition to any other penalty provided by law.

The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation. [L. 1947, c. 60, s. 16.]

[Sec. 8551.17.] Section 17. **Hearing procedure and judicial review.** (a) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefore. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(b) Nothing contained in this Act shall require the observance at any hearing of formal rules of pleading or evidence.

(c) If application therefore be made within ten days after the making of any order or decision of the commissioner the same may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be had upon the record and the evidence presented before the commissioner and no additional evidence shall be presented before the court. If either party on appeal shall offer to present material evidence different from or in addition to the evidence presented to the commissioner, the court shall continue the case and immediately return the record to the commissioner for further hearing or hearings at which either party may present additional evidence, and thereupon the commissioner shall make such further order as the case may require and make return of the evidence and order to the court.

The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part. [L. 1947, c. 60, s. 17.]

Section 18. **Laws repealed.** All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Section 19. **Laws amended.** Chapter 161 of the Revised Laws of Hawaii 1945 is hereby further amended in the following respects:

(a) By amending **section 8463** thereof in the following particulars:

(1) By amending the name "Fidelity and surety" contained in the fourth subparagraph thereof to read as follows:

"Fidelity, surety and guaranty bonds".

(2) By deleting the words "automobile and" contained in the fifth and last line of the seventh subparagraph thereof, and substituting therefor the following:
"motor".

Note: § 8463 is rewritten in footnote to **L. 1947, c. 90** (C-142) ante.

Section 20. **Constitutionality.** If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

Section 21. **Effective date.** This Act shall take effect upon October 1, 1947.

(Approved May 8, 1947.) **S.B. 276, Act 60.**

[CHAPTER 161B. FIRE, MARINE INSURANCE; RATING ORGANIZATIONS.]

Series C-146: ACT 61

An Act Relative to the Regulation of Rates for Fire, Marine and Inland Marine Insurance, and to Rating Organizations, Repealing Sections 8517, 8518, 8519, 8521, 8522 and 8523, and All Other Laws Inconsistent with This Act, and Amending Sections 8463 and 8520 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 8552.01.**] Section 1. **Purpose of Act.** The purpose of this Act is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Act. Nothing in this Act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This Act shall be liberally interpreted to carry into effect the provisions of this section. [L. 1947, c. 61, s. 1.]

[**Sec. 8552.02.**] Section 2. **Scope of Act.** This Act applies to fire, marine and inland marine insurance on risks located in this Territory. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted,

by ruling of the insurance commissioner, hereinafter referred to as commissioner, or as established by general custom of the business, as inland marine insurance. Inland marine insurance is used herein in its generally accepted trade sense. Marine insurance is used herein in its generally accepted trade sense.

This Act shall not apply:

(a) To reinsurance, other than joint reinsurance to the extent stated in section 11;

(b) To insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(c) To insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;

(d) To motor vehicle insurance, nor to insurance against liability arising out of the ownership, maintenance or use of motor vehicles.

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this Act, is also subject to regulation by another rate regulatory act of this Territory, an insurer to which both acts are otherwise applicable shall file with the commissioner, a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage. [L. 1947, c. 61, s. 2.]

[**Sec. 8552.03.**] Section 3. **Making of rates.** (a) Rates shall be made in accordance with the following provisions:

1. Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

2. Rates shall not be excessive, inadequate or unfairly discriminatory.

3. Due consideration shall be given to past and prospective loss experience within and outside this Territory, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurer to their policyholders, members or subscribers, to past and prospective expenses both country-wide and those specially applicable to this Territory, and to all other relevant factors within and outside this Territory; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.

(b) Except to the extent necessary to meet the provisions of subdivision 2 of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(c) Rates made in accordance with this section may be used subject to the provisions of this Act. [L. 1947, c. 61, s. 3.]

[**Sec. 8552.04.**] Section 4. **Rate filings.** (a) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of the Act, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided, that nothing contained in this Act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this Act.

(d) Subject to the exception specified in subsection (e) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such wait-

ing period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this Act unless disapproved by the commissioner within the waiting period of any extension thereof.

(e) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this Act until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision 2 of subsection (a) of Sec. 3.

(g) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(h) Beginning ninety days after the effective date of this Act no insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in this Act or in accordance with subsection (f) or (g) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. [L. 1947, c. 61, s. 4.]

[Sec. 8552.05.] Section 5. **Disapproval of filings.** (a) If within the waiting period or any extension thereof as provided in subsection (d) of section 4, the commissioner finds that a filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this Act and stating that such filing shall not become effective.

(b) If within thirty days after a specific inland marine rate on a risk specially rated by a rating organization, subject to subsection (e) of section 4 has become effective, the commissioner finds that such filing does not meet the requirements of this Act, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this Act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this Act, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, **provided,** however, that the insurer of rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing.

If, after such hearing, the commissioner finds that the filing does not meet the requirements of this Act, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(e) No manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing which has been filed pursuant to the requirements of section 4 of this Act shall be disapproved if the rates thereby produced meet the requirements of this Act. [L. 1947, c. 61, s. 5.]

[**Sec. 8552.06.**] Section 6. **Rating organizations.** (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this Territory, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this Territory upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this Territory designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this Act is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this Act which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.

(e) Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

(f) Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination. [L. 1947, c. 61, s. 6.]

[Sec. 8552.07.] Section 7. **Deviations.** Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant waive such hearing. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making as provided in Section 3 of this Act. The commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner. [L. 1947, c. 61, s. 7.]

[Sec. 8552.08.] Section 8. **Appeal by minority.** Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such

rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order. [L. 1947, c. 61, s. 8.]

[Sec. 8552.09.] Section 9. **Information to be furnished insureds: Hearings and appeals of insureds.** Every rating organization and every insurer which makes its own rates, shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this Territory reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action. [L. 1947, c. 61, s. 9.]

[Sec. 8552.10.] Section 10. **Advisory organizations.** (a) Every group, association or other organization of insurers, whether located within or outside this Territory, which assists insurers which make their own filings or ratings organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this Act, shall be known as an advisory organization.

(b) Every advisory organization shall file with the commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this Territory upon whom notices or orders of the commissioner or process issued at his direction may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of Section 12 of this Act.

(c) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves an act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation. [L. 1947, c. 61, s. 10.]

[**Sec. 8552.11.**] Section 11. **Joint underwriting or joint reinsurance.** (a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting to all other provisions of this Act and, with respect to joint reinsurance, to Sections 12 and 15 to 19 of this Act.

(b) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice. [L. 1947, c. 61, s. 11.]

[**Sec. 8552.12.**] Section 12. **Examinations.** The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this Territory as provided in Section 6 and he may, as often

as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in Section 10 and of each group, association or other organization referred to in Section 11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of any state, pursuant to the laws of such state. [L. 1947, c. 61, s. 12.]

[Sec. 8552.13.] Section 13. **Rate administration.** (a) Recording and reporting of loss and expense experience.

The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in Section 3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this Territory and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states and the Territory, to the rules and to the form of the plans used for such rating systems in the states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner to insurers and rating organizations.

(b) Interchange of rating plan data.

Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) Consultation with states.

In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in any state and may consult with them with respect to rate making and the application of rating systems.

(d) Rules and regulations.

The commissioner may make reasonable rules and regulations necessary to effect the purposes of this Act. [L. 1947, c. 61, s. 13.]

[Sec. 8552.14.] Section 14. **False or misleading information.** No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this Act. A violation of this section shall subject the one guilty of such violation to the penalties provided in Section 15 of this Act. [L. 1947, c. 61, s. 14.]

[Sec. 8552.15.] Section 15. **Penalties.** The commissioner may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than fifty dollars ($50.00) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars ($500.00) for each such violation. Such penalties may be in addition to any other penalty provided by law.

The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation. [L. 1947, c. 61, s. 15.]

[**Sec. 8552.16.**] Section 16. **Hearing procedure and judicial review.** (a) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(b) Nothing contained in this Act shall require the observance at any hearing of formal rules of pleading or evidence.

(c) If application therefor be made within ten (10) days after the making of any order or decision of the commissioner, the same may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be had upon the record and the evidence presented before the commissioner and no additional evidence shall be presented before the court. If either party on appeal shall offer to present material evidence different from or in addition to the evidence presented to the commissioner, the court shall continue the case and immediately return the record to the commissioner for further hearing or hearings at which either party may present additional evidence, and thereupon the commissioner shall make such further order as the case may require and make return of the evidence and order to the court.

The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part. [L. 1947, c. 61, s. 15.]

Section 17. Laws repealed. **Sections 8517, 8518, 8519, 8521, 8522 and 8523** of the Revised Laws of Hawaii 1945 are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Section 18. Laws amended. Chapter 161 of the Revised Laws of Hawaii 1945 is hereby further amended in the following respects:

(a) By amending section 8463 thereof in the following particulars:

1. By amending the name and definition of automobile and vehicle insurance contained in the second subparagraph thereof to read as follows:

"Motor vehicle. Motor vehicle insurance includes insurance of owners, users, dealers, or others having insurable interests therein against hazards incident to ownership, maintenance, operation and use of motor vehicles and incidentally related equipment, including loss resulting from accident or physical injury, fatal or non-fatal, to, or death of, any natural person."

2. By deleting the period at the end of the definition of fire insurance contained in the fifth subparagraph thereof, and adding the following:

"; and also insurance against risks which are included under fire insurance used in its generally accepted trade sense."

Note: § 8463 is rewritten in note to L. 1947, c. 90 (C-142) ante.

(b) By amending Section 8520 thereof to read as follows:

"**Sec. 8520. Discrimination in rates prohibited.** No insurer or rating bureau shall fix or charge any rate upon risks in the Territory, the rates upon which are subject to regulations under this law, which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards." [L. 1917, c. 115, s. 44; R. L. 1945, s. 8520; am. L. 1947, c. 61, s. 17.]

Section 19. Constitutionality. If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

Section 20. Effective date. This Act shall take effect upon October 1, 1947.

(Approved May 8, 1947.) S.B. 277, Act 61.

Chapter 164. TRUST COMPANIES.

Series C-147: ACT 125

An Act to Amend Section 8661 of the Revised Laws of Hawaii 1945, as Amended, Relating to Investments of Trust Companies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8661 of the Revised Laws of Hawaii 1945 is hereby amended so that the same shall read as follows:

"**Sec. 8661. Investments.** (a) Fiduciary accounts. In acquiring, retaining, exchanging, selling, investing, reinvesting and managing property of another, including investments for account of their trusts by trust companies acting as trustees or guardians, a trust company shall exercise the judgment and care which, under the circumstances then prevailing, men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds and property considering both probable income and probable safety of capital. Within the limits of this standard, a trust company as fiduciary may acquire and retain every kind of property, real, personal or mixed and every kind of investment, specifically including, but without in any way limiting the generality of the foregoing, bonds, debentures and other corporate obligations, and corporate stocks, preferred or common, and may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase. Nothing herein contained shall authorize a departure from, or variation of, the express terms or limitations set forth in the instrument creating the fiduciary relationship, but the terms 'legal investment' or 'authorized investment', or words of similar import, shall be construed to mean any investment conforming to the foregoing standard.

(b) **Depository.** Any trust company acting as trustee or guardian holding funds awaiting investment, distribution or other use may deposit such funds on either demand or time with any territorial or national bank which has been designated as a depository by the treasurer of the Territory.

(c) **Capital and surplus.** Except in so far as the bank examiner may permit, which permission may be granted upon application to the bank examiner, investments by trust companies of their capital and surplus shall be made

only as may be specifically permitted by other provisions of law, or in the following classes of securities or real property, viz:

1. In interest-bearing bonds, notes or obligations of the United States, or those for the payment of the principal and interest of which the faith of the United States is pledged;

2. In the interest-bearing bonds, treasurer's warrant notes or other obligations of the Territory or any county of the Territory; or in the bonds of any state or incorporated territory of the United States, or of any county, school district, incorporated city or town, or of any water district, flood control district, sanitary district, municipal utility district or any other similar district, or of any other political subdivision of any such state or incorporated territory; **provided** that such county, school district, city, town, district or political subdivision has a population of not less than ten thousand inhabitants as shown by the federal census next preceding the date of such investment; **provided,** further, that there has been no default in payment of either principal or interest on any of the general obligations of such state, territory, county, school district, city, town, district or political subdivision for a period of five years next preceding the date of such investment, **provided,** further, that such bonds, warrants and other obligations are general obligations of such state, territory, county, school district, city, town, district or political subdivision issuing the same;

3. In bonds secured by either real or personal property of any corporation which at the time of such investment is incorporated under the laws of the United States or any state or territory thereof or the district of Columbia; **provided** that for a period of five years next preceding the date of such investment, there has been no default in payment of principal or interest on any of the general obligations of such corporation which has not within a period of six months after default been cured to the satisfaction of the bank examiner of the Territory of Hawaii; and in the notes of any corporation, which notes are secured by bonds of such corporation, if the bonds are eligible for investment under the provisions of this paragraph and if the principal amount of the notes secured by such bonds does not at the time of acquisition exceed ninety per centum of the actual cash market value of such security;

4. In notes or bonds secured by a first mortgage or deed of trust upon either improved or productive real estate and improvements thereon, in the Territory, which improve-

ments may be or include those to be placed thereon by means of the loan; **provided** that in each case, except when such note or bond is taken for the purpose of facilitating the sale of property owned by the trust company, the total amount of the principal of the obligation secured by such mortgage or deed of trust shall not exceed sixty per centum of the appraised value of the security over and above all taxes due and assessments which are a lien upon the security or any part thereof; **provided,** further, that subsequent advances may be made for the payment of taxes, special assessments for public improvements, maintenance and repairs, to protect the security under the mortgage or trust deed notwithstanding that the total amount of such principal will thereby be made to exceed sixty per centum of such appraised value;

5. In the notes or other obligations of any individual, copartnership, association or corporation secured by a pledge of stocks (except the stock of the trust company or of any corporation more than fifty per centum of the capital stock of which is owned by such trust company), bonds, notes or other securities or leaseholds and the improvements thereon if the total amount of the principal of the notes or other obligations secured by such collateral does not exceed sixty per centum of the appraised value of the security over and above all taxes due and assessments which are a lien upon the security or any part thereof; and in the notes or other obligations of any individual, copartnership, association or corporation secured by a pledge of bonds, notes or obligations of the United States, if the total amount of the principal of the notes or other obligations secured by such bonds, notes or obligations does not exceed ninety per centum of the actual cash market value of such security, and in the notes or other obligations of any individual, copartnership, association or corporation secured by a pledge of mortgage notes which are in turn secured by first mortgages upon either improved or productive real estate, and improvements thereon, in the Territory, if the total amount of the principal of the notes and other obligations secured by such mortgage notes does not exceed ninety per centum of the aggregate basic value of each mortgage note being whichever is lower of the following: (a) the face amount of such mortgage note, or (b) sixty per centum of the appraised value of the security for such mortgage note over and above all taxes due and assessments which are a lien upon such security or any part thereof;

6. In improved or productive real estate in the Territory; and in real estate necessary or desirable for use in connection with or to enhance the value of, and which adjoins any real estate owned by the trust company at the time of such investment;

7. In the bonds of any foreign country or political subdivision thereof, **provided** investments therein shall have been approved by the bank examiner of the Territory, who, however, shall not approve investments in the bonds of any foreign country or political subdivision thereof which, to his knowledge, has been within a period of five years next preceding the date of the investment, in default in the payment of either principal or interest on any of its general obligations;

8. In promissory notes secured by the pledge and assignment of moneys deposited in any savings bank, or the savings department of any bank, in the Territory as collateral security for the payment thereof and of which pledge and assignment notice has been given to the bank and the assignment accepted by the bank. No such loan shall exceed ninety-five per centum of the balance due the depositor;

9. In promissory notes secured by life insurance policies up to the loan value of such policies;

10. In the purchase of certificate of deposit issued by any bank or in the deposit of funds on either demand or time in any savings bank or the savings department of any bank which has been designated as a depository by the treasurer of the Territory;

11. In the capital stock of other corporations, and in the land or lands and building or buildings in which the business of the trust company is carried on, including its trust company offices, other apartments in the same building to rent as a source of income, furniture and fixtures and safe deposit vaults and boxes and other personal property such as may be appropriate to carry on its business; **provided,** (a) that not more than twenty per centum of the capital and surplus of any trust company shall be invested in the stock of any one corporation; and (b) that the total amount of its capital and surplus invested in the stock of corporations and in the lands and buildings and other properties mentioned in this paragraph shall not exceed fifty per centum of such capital and surplus; **provided,** further, that any investment in excess of any of the limits fixed by the preceding proviso, held by a trust company on December 31, 1933, shall not be affected by said limita-

tions, but no increase in such investments shall thereafter be made, nor, if any such investments be thereafter decreased to an amount equal to or greater than such limit, shall such investments be thereafter increased.

(d) **Additional security and foreclosures.** A trust company may:

1. Include under and as additional security to a first mortgage or deed of trust on improved or productive real estate and the improvements thereon, furniture, fixtures, leaseholds and other personal property and other real property, improved or unimproved, and whether or not subject to a prior lien, which other property is incidental or closely related to or used in connection with the improved or productive real estate forming the principal security.

2. Take another immediately subsequent mortgage or trust deed as security for an additional loan on property already mortgaged or conveyed by trust deed as security for a loan of the funds of the trust company; **provided,** however, that the sum of the principal of both or all loans so made does not exceed sixty per centum of the appraised value of the improved or productive real estate and the improvements thereon.

3. Accept a subsequent lien on the same or any other property, real or personal, as additional security for a loan previously made in good faith.

4. Purchase or otherwise acquire real estate or personal property in satisfaction of or on account of debts previously contracted, or under judgments, decrees, or foreclosure of mortgages or liens upon property held, or upon which a lien is held, by the trust company; **provided** that any property so acquired, if not conformable with the provisions hereof, shall, unless the bank examiner shall otherwise permit, be liquidated, sold, or otherwise disposed of within five years from the date of acquisition thereof.

(e) **Payment or advance of premiums.** Any trust company which is agent for any insurance company may, out of its capital and surplus, pay or advance premiums due and owing from any individual, firm, company or corporation to such insurance company, prior to the payment by said individual, firm, company or corporation; **provided** that the total amount of such payments and advances at any one time to any one individual, firm, company or corporation shall not exceed two per centum of the capital and surplus of the company, and to all such individuals, firms, companies or corporations shall not exceed fifteen per centum of the capital and surplus of the trust company.

Any trust company which is agent for any insurance company may, out of its capital and surplus, make loans to an insurance solicitor employed by said trust company as such agent, secured by the commission, interest or share of the solicitor in insurance premiums payable or to become payable by any individual, firm, company or corporation to said insurance company; **provided** that the total amount of such loans at any one time to any one solicitor shall not exceed fifty per centum of the total commissions, interests and shares of such solicitor in such insurance premiums, and to all such solicitors shall not exceed ten per centum of the capital and surplus of the trust company.

(f) **Amounts of loans.** No trust company shall loan a sum to any individual, firm, company or corporation, or permit him or it to become at any time indebted or liable, either directly or indirectly, to the trust company for money borrowed, including therein an extension of credit by the discount or purchase of notes or other obligations of such individual, firm, company or corporation, in an amount exceeding twenty per centum of the aggregate paid-up capital and surplus of the trust company. In computing the total liabilities, direct or indirect, of any person to a trust company, there shall be included all liabilities to the trust company of any copartnership or unincorporated association of which he is a member, and any loans made by the trust company for his benefit or for the benefit of such copartnership or unincorporated association. In computing the total liabilities of any firm, copartnership or unincorporated association to the trust company there shall be included all liabilities of its individual members to the trust company and all loans made by the trust company for the benefit of such copartnership or unincorporated association or any member thereof; and in computing the total liabilities of any corporation to a trust company there shall be included all loans made by the trust company for the benefit of the corporation.

(g) **Appraisals.** The appraisals of property referred to in this section shall be made in such form as shall be designated or approved by the bank examiner, and the appraisers who make the same shall be persons approved by the bank examiner. All such appraisals shall be kept in the files of the trust companies. [R. L. 1945, s. 8661; am. L. 1947, c. 125, s. 1.]

Section 2. The provisions of this Act shall apply to fiduciary accounts already existing as well as to those hereafter created.

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 34, Act 125.**

Series C-148: ACT 129

An Act to Amend Chapter 164 of the Revised Laws of Hawaii 1945, Relating to Trust Companies, by Adding Thereto a New Section, Numbered 8661.01, Authorizing the Use of Nominees to Hold Trust Assets.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 164 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, immediately following section 8661, a new section numbered 8661.01, to read as follows:

"**Sec. 8661.01. Use of nominees permitted.** Any trust company acting as a fiduciary, and any fiduciary acting as a co-fiduciary with a trust company, may cause any stock, bond or other security held in such capacity to be registered or held in the name of a nominee or nominees of such trust company or in the name of the trust company, without disclosing such fiduciary capacity, unless expressly otherwise provided by the instrument, decree or order creating the fiduciary relationship. Such trust company shall require that each such nominee shall execute and deliver to it a proper instrument transferring title to each such stock, bond or other security; shall not permit the nominee to have possession of or access to such stock, bond or other security; shall clearly show on its records that the security is so held; and shall be responsible for any loss resulting from the act of any such nominee. No liability for any loss occasioned by the acts of any such trust company or its nominee or nominees, with respect to any stock, bond or other security so registered or held, shall be imposed upon any corporation the stock, bond or other security of which shall be registered in the name of such trust company or such nominee or nominees, or upon the transfer agent or registrar of such corporation." [L. 1947, c. 129, s. 1.]

Section 2. The provisions of this Act shall apply to fiduciary accounts already existing as well as to those hereafter created.

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 41, Act 129.**

Note: § **8662,** repealed (?) by **L. 1947, c. 130** (C-150), post.

Series C-149: ACT 128

An Act Repealing Section 8663 of the Revised Laws of Hawaii 1945, Relating to General Bond Under Fiduciary Appointment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 8663** of the Revised Laws of Hawaii 1945 relating to "general bond under fiduciary appointment" is hereby repealed.

Section 2. This Act shall take effect upon approval.

(Approved May 16, 1947.) **S.B. 38, Act 128.**

Series C-150: ACT 130

An Act to Amend Chapter 164 of the Revised Laws of Hawaii 1945, Relating to Trust Companies, by Adding Thereto New Sections Numbered 8674 to 8683, Inclusive, Authorizing and Regulating the Establishment and Maintenance of Common Trust Funds by Any Trust Company.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 164 of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto, immediately following section 8673, new sections numbered 8674 to 8683, inclusive, to read as follows:

[COMMON TRUST FUND ACT.]

"**Sec. 8674. Establishment of common trust fund.** Any trust company may establish one or more common trust funds for the collective investment and reinvestment of moneys contributed thereto by it as fiduciary, and by it and others as co-fiduciaries; and such trust company and its co-fiduciaries may invest funds held as trustee, guardian or in any other fiduciary capacity in which it or they shall be authorized to invest funds, in any such common trust fund, if such investment is not expressly forbidden by the instrument, decree or order creating the fiduciary relationship. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8675. Investment of common trust funds. The funds of a common trust fund may be invested and reinvested in those investments in which trust companies are authorized to invest trust funds; **provided** that no investment for a common trust fund shall be made in real estate or in notes secured by real estate which would cause the total amount

of the investment for such fund in real estate and notes secured by real estate to exceed twenty-five per cent of the value of all assets comprising the fund at the time the investment is made. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8676. Plan, approval, contents. Each common trust fund shall be established and maintained in accordance with a written plan approved by resolution of the board of directors of the trust company. The plan shall state the manner in which the fund is to be operated, the apportionment of income, capital gains and losses, the terms and conditions governing the admission and withdrawal of investments from or participation in such fund, the auditing and settlement of accounts with respect thereto, the basis and method of valuing assets therein, the basis upon which the fund may be terminated, and such other matters as may by said board of directors be deemed necessary to clearly define the rights of participants therein, or otherwise desirable. Such plan, or a copy thereof, shall be available at the principal office of the trust company during regular business hours for inspection by any person having an interest in a fiduciary account any funds of which are invested in the common trust fund. The trust company shall designate clearly upon its records the names of the fiduciary accounts on behalf of which the trust company, as fiduciary or co-fiduciary, owns a participation in the common trust fund and the extent of the interest of such fiduciary accounts therein [L. 1947, c. 130, pt. of s. 1.]

Sec. 8677. Participations. The following shall apply with respect to participations in a common trust fund:

1. Participations in a common trust fund shall be held only by fiduciary accounts of which the trust company is fiduciary or co-fiduciary and shall be nontransferable.

2. No funds of any trust shall be invested in a participation in a common trust fund if such investment would cause the interest of such trust at the time of such investment to be in excess of ten per cent of the value of the assets of the common trust fund as determined in accordance with the plan, or the sum of $25,000.00, whichever is the less. In applying the limitations stated in the foregoing sentence, if two or more trusts are created by the same settlor or settlors, and as much as one-half of the income or principal, or both, of each trust is payable or applicable to the use of the same person or persons, such trusts shall be considered as one.

3. Not less frequently than once each calendar quarter the trust company administering a common trust fund shall determine the value of the assets therein upon such basis as the plan provides. No participation shall be admitted to or withdrawn from the common trust fund except on the valuation date. A reasonable period, not to exceed seven days, following each valuation date may be used to make the computations necessary to determine the value of the fund and the participations therein.

4. Upon the withdrawal of a participation the trust company may make distribution in cash or ratably in kind, or partly in cash and partly in kind, but all distributions made at any one time shall be made on the same basis. [L. 1947, c. 130, pt. of s. 1.]

Note: This Act supercedes § 8662 ?

Sec. 8678. Fiduciary not to participate. A trust company administering a common trust fund shall not invest any of its own funds therein and if, because of a creditor relationship or otherwise, it shall acquire an interest therein its participation shall be withdrawn on the first date on which a withdrawal can be effected in accordance with the plan. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8679. Title to assets. No fiduciary account owning an interest in a common trust fund shall be deemed to have individual ownership of any asset thereof but only a proportionate undivided equitable interest in such fund. Title to all assets of any such fund shall at all times be vested in the trust company maintaining the same, as fiduciary for the participants therein. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8680. Mistakes. No mistakes made in good faith and in the exercise of care and prudence in connection with the administration of any common trust fund shall be held to exceed any power granted to or to violate any duty imposed upon a trust company as fiduciary if promptly after the discovery of the mistake the trust company takes such action as is practicable in the circumstances to remedy the mistake. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8681. Accountings. A trust company maintaining any common trust fund shall be required to render only such accounts with respect thereto as may be required for the participating accounts. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8682. Taxation. No common trust fund shall be subject to taxation as a corporation, association, partnership or individual but it shall be deemed an estate or trust within the meaning of section 5523, and the income therefrom and all capital gains or losses thereof shall be deemed to be income, gains or losses, respectively, of the fiduciary accounts participating in such fund in accordance with their ratable participations. [L. 1947, c. 130, pt. of s. 1.]

Sec. 8683. Management fees. No separate fee, commission or compensation for the management of a common trust fund shall be charged by the trust company, but the compensation of the trust company for such management shall be limited to the fees, commissions or compensation properly charged to the participating accounts. The trust company shall be entitled to charge against the fund the usual fee or commission for services rendered as a realtor or stock broker in connection with the sale or purchase of any assets by or for a common trust fund, unless the plan shall otherwise provide, and any expense incurred in the management thereof." [L. 1947, c. 130, pt. of s. 1.]

Section 2. The provisions of this Act are declared to be severable, and if any portion of this Act, or if the application of this Act or any portion thereof to any person, circumstance or property, is held invalid for any reason, the validity of the remainder of this Act, or the application of this Act or of such portion thereof to other persons, circumstances or property, shall not be affected.

Section 3. The provisions of this Act shall apply to fiduciary accounts already existing as well as to those hereafter created.

Section 4. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Note: **Repeals § 8662 ?**

Section 5. This Act may be referred to as the "Common Trust Fund Act".

Section 6. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 42, Act 130.**

Title 22: GENERAL BUSINESS LAW.
[CHAPTER 173A. RELEASE OF POWERS.]

Series C-151: ACT 126
An Act Relating to the Release of Powers.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 9095.01.**] Section 1. [**Release of power by written instrument.**] Any power, including any power of appointment, whether exercisable by deed or by will or otherwise, and whether general or special, other than an imperative power, may be released, either with or without consideration, by written instrument executed by the donee and delivered as hereinafter provided or as provided in the instrument creating such power.

Such power may be released as to all or any part of the property subject thereto and may be released so as to reduce or limit the persons or objects, or classes of persons or objects, in whose favor such power would otherwise be exercisable. No release shall make imperative any power which was not imperative prior to the release.

Any such release may be delivered as follows:

(a) To any person specified for such purpose in the instrument creating the power; or

(b) To any trustee of the property to which the power relates; or

(c) To any person, other than the donee, who could be adversely affected by the exercise of the power; or

(d) To the registrar of conveyances of the Territory of Hawaii in form suitable for recording, who shall accept the same for record upon payment of the fee provided by law. From the time of such recordation notice of such release shall be deemed to have been given all persons. [L. 1947, c. 126, s. 1.]

[**Sec. 9095.02.**] Section 2. [**Prior releases validated.**] All releases of powers heretofore made which substantially comply with the requirements of the foregoing section are hereby validated. [L. 1947, c. 126, s. 2.]

[**Sec. 9095.03.**] Section 3. [**Method of release herein not exclusive.**] No one of the means or methods provided in this Act for the release of a power is exclusive of any other means or method provided in this Act or otherwise available for the purpose, and the means and methods provided in this Act are in addition to all other means and methods available to a donee for the release of a power in whole or in part. Nothing in this Act shall prevent or render ineffective the release in any lawful manner of any power. [L. 1947, c. 126, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 35, Act 126.**

Chapter 179. TRADE MARKS, etc.

Series C-152: ACT 163

An Act Relating to the Contents of Applications for Certificates of Registration of Trade-marks, Trade Names, Prints and Labels, to the Filing Fees for Certificates of Registration, to the Grounds and Procedure for the Revocation of Such Certificates, and Validating Certain Certificates Heretofore Issued.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 179, Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By amending section 9286 to read as follows:

"**Sec. 9286. Application for certificate; fee.** Before any one shall receive a certificate of the registration of a print, label or trade mark, he shall file in the office of the treasurer of the Territory an application for the registration of such print, label or trade mark, with a declaration, verified by the oath of the applicant, or, if the application be made by a firm or corporation, by the oath of a member of such firm, or an officer of such corporation, stating that he is, or they are, the sole and original proprietor or proprietors, or the assign or assigns of such proprietor or proprietors, of the print, label or trade mark, and describing the goods or manufactured articles for which such print, label or trade mark is to be used, and stating the manner in which such print, label, or trade mark is to be used. Before any one shall receive a certificate of the registration of a trade name he shall file in the office of the treasurer of the Territory an application for the registration thereof, with a declaration, verified as aforesaid, stating that he is, or they are, the sole and original proprietor or proprietors of the trade name, or the assign or assigns of such proprietor or proprietors, and setting forth the nature of the business in which such trade name is to be used. The application shall be accompanied by two exact copies of such print, label, or trade mark, or it shall set forth the trade name. Upon filing such application, the applicant shall pay to the treasurer a fee of ten dollars." [L. 1888, c. 4, ss. 2, 3; am. L. 1925, c. 174, pt. of s. 1; R. L. 1945, s. 9286; am. L. 1947, c. 163, pt. of s. 1.]

(2) By amending section 9290 to read as follows:

"**Sec. 9290. Revocation.** If any print, label, trade mark or trade name is not used by the applicant in accordance with the declaration either in the Territory or else-

where in the United States for any period of three hundred and sixty-five consecutive days, and the said print, label, trade mark or trade name has not been registered in the name of the applicant in the patent office of the United States, the certificate of registration shall be subject to revocation.

Any person desiring such revocation shall file a petition in the office of the treasurer, setting forth facts indicating such non-user for a period of three hundred and sixty-five consecutive days immediately preceding the date of the filing of his petition, and alleging the non-registration in the patent office of the United States. The petition shall be verified upon the information and belief of the petitioner, or if the petition be made by a firm or corporation, by a member of such firm or an officer of such corporation. The petitioner shall cause actual notice of the proceeding to be given the registered owner by such method or manner as the treasurer may prescribe, and the registered owner shall be given the opportunity of a full hearing. If the registered owner, after due diligence, cannot be found, the treasurer may order that the petitioner give notice by publication in some newspaper suitable for the advertisement of notices of judicial proceedings for such length of time as he may deem reasonable, not less than once each week in four successive weeks, the last publication to be not less than twenty-one days prior to the date set for the hearing. The giving of notice shall be deemed complete upon the last publication. The notice as published shall also contain the date which has been set for the hearing.

After granting an opportunity for hearing to the petitioner and the registered owner, the treasurer shall grant or deny the petition for cancellation, as the facts shall warrant." [L. 1933-4, c. 29, pt. of s. 2; R. L. 1945, s. 9290; am. L. 1947, c. 163, pt. of s. 1.]

Section 2. All applications for certificates of registration, and all certificates of registration issued prior to the effective date of this Act, which may for any reason be invalid, are hereby validated, provided they would be valid if filed or issued pursuant to the provisions of Section 9286, as amended by this Act. No provision of this Act, nor any amendment made herein, shall be construed to invalidate any application filed or any certificate of registration issued prior to the effective date of this Act.

Section 3. This Act shall take effect upon approval.

(Approved May 19, 1947.) **H.B. 796, Act 163.**

Note: §§ **9308.01-.08,** added L. 1945, c. 214 (C-152), unfair trade, etc.

PART D

COURTS

Title 23: APPEAL AND ERROR.
Chapter 182. APPEALS: BONDS.

Note: § **9503**, amended L. 1945, c. 194 (D-153).

Title 24: COURTS, etc.
Chapter 189. CIRCUIT COURTS.

Note: § **9633**, amended L. 1945, c. 142 (D-154).

Series D-153: ACT 134

An Act Amending Section 9640 of the Revised Laws of Hawaii 1945 Relating to Terms and Sessions of Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9640 of chapter 189 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 9640. Length of term and what cases may be tried when.** The terms of the circuit courts may continue and be held, subject to adjournment from time to time, until the times fixed by law for the commencement of their next terms respectively; **provided** that Sundays and legal holidays shall be excepted; and **provided,** further, that no trial of any contested term civil case shall be commenced in July or August, except that during said months, with the consent of both parties, the circuit courts may commence and try any civil case; **provided,** further, that the circuit court of the second circuit shall hold sessions on the island of Molokai and the circuit court of the third circuit shall hold sessions at Kailua and North Kohala at least twice in each year, and, shall hold additional sessions at such places, or, other places, within their respective circuits as often as the respective circuit judges shall deem such sessions to be essential to the promotion of justice, for the trial of such cases as do not require a jury, and, that no grand jury shall be summoned for such sessions." [L. 1892, c. 57, s. 33; am. L. 1943, c. 141, s. 1 (c); R. L. 1945, s. 9640; am. L. 1947, c. 134, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 110, Act 134.**

Series D-154: ACT 220

An Act to Amend Section 9644 of the Revised Laws of Hawaii 1945, Relating to Circuit Courts and Adjournments Thereof; and to Provide for Adjournment of a Circuit Court or Continuance of a Hearing Before Such or Before a Circuit Judge at Chambers When no Circuit Judge Attends.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9644 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 9644. Adjournment of circuit court, or continuance of hearing or trial before such or a circuit judge at chambers.** If the judge of any circuit court, or any other circuit judge authorized to preside at such court as in section 9642 provided, or any circuit judge sitting at chambers, shall fail to attend such circuit court at the time at which it is appointed to be held, or any trial or hearing at the time appointed, a clerk thereof shall open the court and adjourn the same, or continue any case or matter then before the court or judge for trial or hearing, from time to time, until the attendance of one of the circuit judges, or until the holding of such circuit court has expired; but no such adjournments or continuance shall be for a longer period than three days, unless there shall, at the time of adjournment or continuance, be on file with the clerk, or in the office of the clerk of court of said circuit court, a written order, by the qualified circuit judge, fixing the day to which adjournment or continuance shall be made." [L. 1892, c. 57, s. 46; R. L. 1945, s. 9644; am. L. 1947, c. 220, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 341, Act 220.**

Note: §§ **9655-56,** amended L. 1945, c. 142 (D-154); § **9658,** amended L. 1945, c. 178 (D-155).

Chapter 190. DISTRICT COURTS.

Series D-155: ACT 173

An Act Amending Section 9671 of the Revised Laws of Hawaii 1945, as Amended, Relating to District Magistrates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9671 of the Revised Laws of Hawaii, as amended by Act 80 [D-156] of the Session Laws of 1945, is hereby further amended to read as follows:

"**Sec. 9671. District magistrates.** There shall be appointed one or more district magistrates of each judicial district defined in section 151, Revised Laws of Hawaii 1945, save that there shall be one district magistrate for the districts of Hamakua, North Kohala and South Kohala; one district magistrate for the districts of North Kona and South Kona; one district magistrate for South Hilo, North Hilo and Puna; one district magistrate for the districts of Koolaupoko and Koolauloa; and one district magistrate for the districts of Kawaihau and Hanalei. Such appointments shall be made by the chief justice of the supreme court. Each magistrate shall be an elector of the county in which he is appointed and shall have passed an examination for admission to practice law in the district courts; **except** that the district magistrate of South Hilo, North Hilo and Puna, the district magistrate of Wailuku, and the district magistrates of Honolulu shall be attorneys licensed to practice in all the courts of the Territory; **provided,** further, that the district magistrate of the district of Kalawao need not have passed an examination for admission to practice law in the district courts." [L. 1892, c. 57, s. 8; (sundry amendments); R. L. 1945, s. 9671; am. L. 1945, c. 80, s. 1; am. L. 1947, c. 173, s. 2.]

Section 2. From and after the effective date of this Act, the district magistrate of South Hilo and Puna shall thereafter perform the duties of district magistrate of North Hilo; the district magistrate of North and South Kohala shall thereafter perform the duties of district magistrate of Hamakua; the district magistrate of Koolaupoko shall thereafter perform the duties of district magistrate of Koolauloa; the district magistrate of Kawaihau shall thereafter perform the duties of district magistrate of Hanalei.

Section 3. This Act shall take effect on the first day of the month succeeding the approval of this Act.

(Approved May 19, 1947.) **S.B. 188, Act 173.**

Note: § **9674,** see **L. 1947,** c. 188 (D-166). § **9675,** amended L. 1945, c. 80 (D-156).

Series D-156: ACT 231

An Act to Amend Section 9677 of the Revised Laws of Hawaii 1945, Relating to the Criminal Jurisdiction of District Magistrates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 9677** of the Revised Laws of Hawaii 1945 is hereby amended by amending the proviso thereof to read as follows:

"**provided,** however, that any person arrested upon a charge of having committed an offense in a district other than that in which he was arrested, may elect upon the consent of a duly authorized prosecuting officer of the district in which the offense was committed or of the attorney general, to be tried therefor in the district where he was arrested, and upon such election and consent the district magistrate of the district in which the offense was committed shall transfer such case to the district magistrate of the district where he was arrested."

Section 2. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 447, Act 231.**

Note: As so amended, § 9677 reads:

Sec. 9677. Same, powers. District magistrates shall have power, subject to appeal according to law and except as otherwise provided in cases in which the accused shall have the right to and shall demand a trial by jury in the first instance, to try without a jury, and to render judgment in all cases of criminal offenses coming within their respective jurisdictions; **provided,** however, that any person arrested upon a charge of having committed an offense in a district other than that in which he was arrested, may elect upon the consent of a duly authorized prosecuting officer of the district in which the offense was committed or of the attorney general, to be tried therefor in the district where he was arrested, and upon such election and consent the district magistrate of the district in which the offense was committed shall transfer such case to the district magistrate of the district where he was arrested.

Their criminal jurisdiction shall be coextensive with the judicial circuits in which their respective districts are situated for the purpose of the arrest, examination, commitment and enlargement of parties accused, the issue of search warrants according to law, and to compel the attendance of witnesses. [L. 1892, c. 57, s. 11; am. L. 1901, c. 2, s. 2; R. L. 1945, s. 9677; am. L. 1947, c. 231, s. 1.]

Note: § **9701,** amended L. 1945, c. 226 (D-157).

Chapter 192. CLERKS, etc.

Series D-157: ACT 26

An Act Relating to the Clerk of the District Court of Molokai, Repealing Section 9729 and Amending Sections 9728, as Amended, and 9781 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 9729** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 2. **Section 9728** of said Revised Laws, as amended, is hereby further amended by inserting after the word "Lahaina," in the fourth line of the second paragraph thereof, a comma and the words "of Molokai."

Section 3. **Section 9781** of said Revised Laws is hereby amended by inserting, between the thirteenth and fourteenth lines thereof, a new line, which shall read:

"clerk and stenographer, Molokai."

Section 4. This Act shall take effect upon its approval.

(Approved May 1, 1947.) **S.B. 54, Act 26.**

Note: As amended by L. 1945 and L. 1947, § 9728 reads:

Sec. 9728. Appointment, removal, tenure, duties. Authority is conferred upon the judges of the circuit court of the first judicial circuit, or a majority thereof, to appoint one or more interpreters, and upon each of the circuit judges of the other circuit courts, to appoint a competent shorthand reporter and one or more interpreters for their respective courts.

Authority is also conferred upon the district magistrates of Honolulu, of South Hilo, and of Wailuku, respectively, to appoint a clerk or clerks and one or more interpreters for each of said district courts, and upon the district magistrates of Makawao, of Lahaina, of Molokai and of Lanai, respectively, to appoint a clerk for each of said district courts. It is **provided,** however, that the district magistrates of Honolulu, anything in any other law, rule, or regulation to the contrary notwithstanding, are empowered to require of the interpreters of said court, in addition to their other duties, such clerical work as they may be qualified to perform.

Each of the shorthand reporters, interpreters and clerks thus appointed shall hold office until removed by the judges, or a majority thereof, or by the judge or magistrate by whom he is appointed, and shall receive for his services such salary as may be appropriated from time to time. Any one of the circuit judges may temporarily assign to any shorthand reporter, or interpreter, appointed as aforesaid, any appropriate duties in any court of the Territory other than the one in which he is located. Nothing in this section contained, however, shall be held to prevent the employment by any one of the circuit judges or district magistrates aforesaid, of any shorthand reporter, interpreter or clerk to serve in individual cases as they may arise, when necessary.

Where one district magistrate is appointed for two districts, a clerk or clerks appointed for either such district shall serve as clerk or clerks for the other of such districts, and shall receive and accept in either district papers for filing in either of the district courts of said districts. [L. 1898, c. 8, s. 1; am. L. 1915, c. 208, s. 1; R. L. 1925, s. 2298; am. L. 1929, c. 101, s. 2; R. L. 1935, s. 3697; am. L. 1941, c. 52, s. 1; am. L. 1943, c. 69, s. 1; R. L. 1945, s. 9728; am. L. 1945, c. 80, s. 3; am. L. 1947, c. 26, s. 2.]

Note: § **9734,** amended L. 1945, c. 249 (D-158); § **9742,** amended L. 1945, c. 57 (D-159); § **9744,** amended L. 1945, c. 55 (D-160); § **9745,** amended L. 1945, c. 94 (D-161).

Chapter 193. COSTS AND FEES.

Series D-158: ACT 100

An Act to Amend Section 9757 of the Revised Laws of Hawaii 1945, Relating to Fees and Expenses of Executors, Administrators, Trustees and Guardians.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 9757** of the Revised Laws of Hawaii 1945, is hereby amended by amending the fourth paragraph of said section so that the same shall read as follows:

"Such further allowances may be made as the court shall deem just and reasonable for services performed in connection with sales or leases of real estate, contested or litigated claims against the estate, the adjustment and payment of extensive or complicated estate or inheritance taxes, the preparation of estate and income tax returns, the carrying on of the decedent's business pursuant to an order of court or under the provisions of any will, litigation in regard to the property of the estate and such other special services as may be necessary for the executor, administrator, trustee or guardian to perform, prosecute or defend. All contracts between an executor, administrator, trustee or guardian and an heir, devisee, legatee, ward, or a beneficiary other than the creator of the trust, for higher compensation than is allowed in this section shall be void."

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 296, Act 100.**

Note: As so amended, § 9757 reads:

Sec. 9757. Fees and expenses of executors, administrators, trustees and guardians. Upon all moneys and other property received in the nature of revenue or income of the estate, such as rents, interest, dividends and general profits, executors, administrators, trustees and guardians, except trustees of a charitable trust, shall be allowed as commissions payable out of the income received during each year, ten per centum for the first thousand dollars, seven per centum for the next four thousand dollars and

five per centum for all over five thousand dollars, such commissions to be payable as and when such income is received, but said rates of ten per centum and seven per centum to be applied not oftener than once a year.

Upon the principal of the estate, executors and administrators shall be allowed as commissions payable out of the principal at the close of administration, five per centum for the first thousand dollars, four per centum for the next nine thousand dollars, three per centum for the next ten thousand dollars, two per centum for the next thirty thousand dollars and one per centum for all over fifty thousand dollars, the amount of such principal for this purpose to be the appraised value of the estate as of the death of the decedent; **provided,** however, that for the purpose of computing such commissions on such principal there shall be deducted from the appraised value of any real property included in the estate the amount of any existing indebtedness secured by lien upon such real property duly recorded prior to the death of the decedent and which shall have been foreclosed and the real property covered by the same sold at any time during the administration of the estate; and in case the estate includes real property subject to an agreement of sale duly recorded prior to the death of the decedent such commissions shall be calculated on the appraised value of the balance due from the vendee on account of the purchase price thereof.

Upon the principal of the estate, trustees and guardians shall be allowed as commissions, one per centum on the value at the inception of the trust payable at such inception out of the principal, one per centum on the value of all or any part of the estate upon final distribution thereof payable at such termination out of the principal, and two and one-half per centum upon all cash principal received after the inception of the trust and neither being nor representing principal upon which the two and one-half per centum has previously at any time been charged, payable at such receipt out of the principal, and two and one-half per centum upon the final payment of any cash principal prior to the termination of the trust, payable at the final payment out of the principal. For the purposes of this paragraph, the value of the estate shall be determined in such manner as the court may approve.

Such further allowances may be made as the court shall deem just and reasonable for services performed in connection with sales or leases of real estate, contested or litigated claims against the estate, the adjustment and payment of extensive or complicated estate or inheritance taxes, the preparation of estate and income tax returns, the carrying on of the decedent's business pursuant to an order of court or under the provisions of any will, litigation in regard to the property of the estate and such other special services as may be necessary for the executor, administrator, trustee or guardian to perform, prosecute or defend. All contracts between an executor, administrator, trustee or guardian and an heir, devisee, legatee, ward, or a beneficiary other than the creator of the trust, for higher compensation than is allowed in this section shall be void.

These provisions shall apply as well to future accounting in existing estates as to new estates. [Part of R. L. 1935, s. 3793; am. L. 1935, c. 124, s. 1; am. L. 1943, c. 88, s. 1 and c. 149, s. 1; R. L. 1945, s. 9757; am. L. 1947, c. 100, s. 1.]

Note: § **9761,** amended L. 1945, c. 37 (A-108); § **9771,** amended L. 1945, c. 35 (D-162) and c. 142 (D-154); § **9771.01,** added L. 1945, c. 35 (D-162), and §§ **9772-76,** repealed L. 1945, c. 35 (D-162).

Chapter 194. EXPENSES AND SALARIES.

Series D-159: ACT 171

An Act Amending Section 9779 of the Revised Laws of Hawaii 1945 Relating to Salaries of District Magistrates and District Court Clerks in the County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9779 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 9779. Hawaii.** The district magistrates, clerks and other assistants referred to in section 9777, and the salary rates of the district magistrates, are for the county of Hawaii, as follows:

	Per Month	Per Annum
District magistrate, Hamakua, North and South Kohala	$ 300.00	$3600.00
Clerk and reporter, district court of Hamakua, North and South Kohala, to be employed on a part-time basis and paid such salaries as may be determined by the board of supervisors, county of Hawaii.		
District magistrate, North and South Kona	225.00	2700.00
District magistrate, Kau	200.00	2400.00
District magistrate, South Hilo, North Hilo, and Puna	500.00	6000.00
Chief clerk, first assistant clerk and reporter, and second assistant clerk and reporter, district court of South Hilo, North Hilo and Puna, whose salaries shall be paid by the county of Hawaii, as provided for by chapter 3, R. L. H. 1945. [R. L. 1945, s. 9779; am. L. 1947, c. 171, s. 1.]		

Section 2. In the event that senate bill no. 188 or equivalent legislation shall be enacted, then this Act shall take effect upon its approval, or upon the date said senate bill no. 188 or such equivalent legislation takes effect, whichever is later in time.

(Approved May 19, 1947.) **S.B. 147, Act 171.**

Note: Senate Bill No. 188 is act 173, (D-155) effective June 1, 1947. § **9781,** amended **L. 1947,** c. 26 (D-157) ante. § **9791,** amended L. 1945, c. 163 (D-165); §§ **9797-98,** amended L. 1945, c. 62 (D-163); § **9800,** amended L. 1945, c. 149 (D-164); § **9800.01,** added L. 1945, c. 163 (D-165); § **9827,** amended L. 1945, c. 38 (D-166); § **9847.02,** added L. 1945, c. 183 (D-167); § **9883,** amended L. 1945, c. 17 (D-168); § **9886,** amended L. 1945, c. 195 (D-169); § **9890,** amended L. 1945, c. 109 (D-170); § **9897.01-.03,** added L. 1945, c. 148 (D-171); § **9971,** amended L. 1945, c. 74 (D-172).

Title 26: PLEADINGS AND PROCEDURE.

Chapter 206. JUDGMENT, NEW TRIAL.

Series D-160: ACT 158

An Act to Prescribe Uniform Fees for the Filing of Judgments and Assignments, Releases and Satisfactions of Judgments, Amending Sections 10133 and 10134 of the Revised Laws of Hawaii 1945 to Conform to Section 12728 of Said Revised Laws.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 10133** of the Revised Laws of Hawaii 1945 is hereby amended by amending the last sentence of the first paragraph thereof to read as follows:

"The filing fees for a judgment and for each assignment and release of judgment shall be as provided by section 12728."

Section 2. **Section 10134** of the Revised Laws of Hawaii 1945 is hereby amended by amending the last sentence of the first paragraph thereof to read as follows:

"The filing fees for a judgment and for each assignment or satisfaction of judgment shall be as provided by section 12728."

Section 3. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 275, Act 158.**

Title 27: CIVIL REMEDIES AND DEFENSES.

Chapter 207. ATTACHMENT AND EXECUTION.

Series D-161: ACT 190

An Act to Amend Section 10144 of the Revised Laws of Hawaii 1945, Relating to Bond Required for a Writ of Attachment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 10144** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof the following sentence:

"Subject to the provisions of section 10145, in any case where the amount for which the plaintiff demands judgment is in excess of $50,000.00, the court may, upon motion of the plaintiff, enter an order permitting a bond, conditioned as herein provided, in a sum as fixed in said order of less than the amount hereinabove set forth, **provided** that the bond shall in any event be not less than an amount equal to one and one-half times the value of the property of the defendant proposed to be attached as shown to the satisfaction of the court entering the order."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 620, Act 190.**

Note: As so amended, § 10144 reads:

Sec. 10144. Bond. Amount and conditions. Before the writ of attachment shall issue, the plaintiff, or some one in his behalf, shall execute and file with the clerk a bond or undertaking with two or more sureties, in a sum at least double the amount for which the plaintiff demands judgment, and in no case less than fifty dollars in a district court, or three hundred dollars in any other court, conditioned that the plaintiff will prosecute his action without delay, and will pay all costs that may be adjudged to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the amount specified in such bond or undertaking as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out, and in case the defendant be declared a bankrupt, pay all charges, damages and expenses incurred by any police officer by reason of the attachment. With the bond or undertaking, there shall also be filed the affidavits of the sureties, as provided in section 497. But no such bond shall be required when the plaintiff is the Territory or any officer or agent of the Territory or any municipality suing for its use or benefit. Subject to the provisions of section 10145, in any case where the

amount for which the plaintiff demands judgment is in excess of $50,000.00, the court may, upon motion of the plaintiff, enter an order permitting a bond, conditioned as herein provided, in a sum fixed in said order of less than the amount hereinabove set forth, **provided** that the bond shall in any event be not less than an amount equal to one and one-half times the value of the property of the defendant proposed to be attached as shown to the satisfaction of the court entering the order. [L. 1905, c. 84, s. 4; am. L. 1917, c. 18, s. 1; am. imp. L. 1917, c. 78, s. 1; R. L. 1925, s. 2808; am. imp. L. 1931, c. 163, s. 1; R. L. 1945, s. 10144; am. L. 1947, c. 190, s. 1.]

Note: § **10160, see L. 1947,** c. 124 (C-136), re transfer of stock. § **10163.01,** added L. 1945, c. 132 (D-173).

Chapter 210. ESCHEAT.

Series D-162: ACT 127

An Act to Provide That Unclaimed Dividends Shall Escheat to the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section is hereby added to chapter 210 of the Revised Laws of Hawaii 1945, to be designated section 10251 and to read as follows:

"**Sec. 10251. Unclaimed dividends.** It shall be the duty of every corporation to make a written report annually, in sextuplicate, to the treasurer of the Territory giving the names, the several amounts due to, and the last known addresses of any persons who appear on the records of the corporation to be stockholders and who during a period of five years have failed to collect all the dividends due them. For the purposes of each such report, only, any dividends previously so reported shall be deemed to have been collected on the date of such report by the stockholder then of record. The report shall be in such form as the treasurer may require. Accompanying the report shall be a remittance of the total amount of money so reported. The receipt of the treasurer therefor shall relieve and release such corporation from further liability to the persons entitled to such dividends. The moneys remitted shall be deposited in the treasury, and the treasurer shall forthwith transmit the original and four copies of the report to the attorney general, who shall file an information, in the name of the Territory, in the circuit court of the first judicial circuit. All applicable provisions of section 10248 shall apply with respect to said information, to the notice to be

given thereon and to the proceedings to be had thereunder, but in no case shall it be necessary to join any such corporation as a respondent. Upon the entry of the appropriate decree, all such moneys, over and above the amount actually necessary to pay the costs of such proceedings, including advertising, shall escheat to the Territory, but subject to further claim for a period of five years, all in the manner provided by section 10249, and subject to the provisions therein contained." [L. 1947, c. 127, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 16, 1947.) **S.B. 37, Act 127.**

Note: § **10404.01**, added L. 1945, c. 251 (D-174); § **10406**, amended L. 1945, c. 216 (D-175); § **10414.01**, added L. 1945, c. 192 (D-176); § **10429.01**, added L. 1945, c. 174 (D-177); § **10429.02**, added L. 1945, c. 210 (D-178); § **10433.01**, added L. 1945, c. 210 (D-178).

Title 28: CRIMINAL LAW.

Chapter 229. STATUTE OF LIMITATIONS.

Series D-163: ACT 189

An Act Relating to the Limitation of Actions in Criminal Cases and Amending Chapter 229 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 10691 of the Revised Laws of Hawai 1945 is hereby amended to read as follows:

"**Sec. 10691. Two years; exceptions.** No person shall be prosecuted for any offense under the laws of the Territory, except murder in the first and second degrees, manslaughter, rape, assault with intent to ravish, carnal abuse of a minor under the age of twelve years, kidnapping, arson in the first and second degrees, burglary in the first and second degrees, forgery, robbery in the first and second degrees, larceny in the first degree, giving, promising or receiving a bribe, extortion in the first and second degrees, compounding an offense punishable by death or imprisonment for life or both, and embezzlement, unless the prosecution for the offense be commenced within two years next after the commission thereof; but nothing herein contained shall bar any prosecution against any person who shall flee from justice, or absent himself from the Territory, or so secrete himself that he cannot be found by the officers of the law, so that process canont be served upon him." [L. 1905, c. 17, s. 1; R. L. 1945, s. 10691; am. L. 1947, c. 189, s. 1.]

Section 2. All laws or parts of laws inconsistent with this Act are hereby amended to conform to this Act.

Section 3. Each section, paragraph, sentence, phrase, clause or portion of this Act is hereby declared to be severable. If this Act or any section, paragraph, sentence, phrase, clause or other portion thereof or the application thereof to any person or circumstances is held unconstitutional or invalid, the remainder of this Act or the application thereof or of the portion concerned to any other person or circumstances shall not be affected.

Section 4. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **S.B. 535, Act 189.**

Chapter 233. CRIMINAL PROCEDURE: CIRCUIT COURTS.

Series D-164: ACT 199

An Act Amending the Third Paragraph of Section 10842, Revised Laws of Hawaii 1945, Relating to Terms of Imprisonment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The third paragraph of **section 10842,** Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Approval by court.** As soon as practicable after the order is made the board shall in writing submit such order together with such information to the court having jurisdiction of the case for its approval. In considering the order the court shall have power to have such persons brought before it for examination and shall also have power to modify such order by increasing or decreasing the minimum term of imprisonment, but within the aforesaid as respects the minimum term in any case where the maximum term is life imprisonment. Such order as approved or as modified by the court shall become effective upon receipt by the board of written notice thereof from the court. The court shall send said written notice to the board as soon as practicable after receiving the order of the board, but in any event not later than sixty days following receipt by the court of said order. Upon the receipt of such notice the board shall notify such person in writing of the minimum term of imprisonment to be served by him before he shall become eligible for parole."

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1947.) **S.B. 460, Act 199.**

Note: As so amended, § 10842 reads:

Sec. 10842. Indeterminate sentences; maximum. In all cases in which a person has been convicted of a felony, except in cases in which the penalty prescribed by law is death, the court in imposing sentence shall impose the maximum term of imprisonment prescribed by law for the crime for which he was convicted; and in all cases in which the penalty pre-

scribed by law may be imprisonment for life or any number of years, the court imposing the sentence shall fix the maximum term.

Minimum; procedure. As soon as practicable and not later than three months after any person sentenced to imprisonment for life or for any term of years has been committed to the territorial prison, the board of paroles and pardons shall make an order fixing the minimum term of imprisonment to be served before he shall become eligible for parole; **provided** that when the maximum sentence is for life a minimum term shall be fixed at not less than fifteen nor more than thirty years; **provided,** further, that when a sentence of death is commuted to imprisonment for life the minimum term shall be not less than twenty years to be served without commutation; **provided,** also, that the board in its discretion may in any particular case and at any time impose a special condition that the prisoner will not be considered for parole unless and until he shall have a record of continuous exemplary behavior as a prisoner for such period as the board may specify. Before making the order the board shall obtain all available information concerning the prisoner's age, nativity, nationality, parentage, education, industry, habits, disposition, character and career.

Approval by court. As soon as practicable after the order is made the board shall in writing submit such order together with such information to the court having jurisdiction of the case for its approval. In considering the order the court shall have power to have such persons brought before it for examination and shall also have power to modify such order by increasing or decreasing the minimum term of imprisonment, but within the aforesaid as respects the minimum term in any case where the maximum term is life imprisonment. Such order as approved or as modified by the court shall become effective upon receipt by the board of written notice thereof from the court. The court shall send said written notice to the board as soon as practicable after receiving the order of the board, but in any event not later than sixty days following receipt by the court of said order. Upon the receipt of such notice the board shall notify such person in writing of the minimum term of imprisonment to be served by him before he shall become eligible for parole.

In all cases in which on April 26, 1933, a prisoner was serving a sentence of imprisonment for life without any minimum term having been fixed with respect to such sentence, the board of paroles and pardons, as soon as practicable in each case, shall fix a minimum term of imprisonment which shall not in any case be less than ten nor more than twenty years dating from the commencement of such life term, upon the expiration of which minimum term, without any reduction by commutation, the prisoner shall become eligible for parole as in other cases. [L. 1909, c. 45, s. 1; am. L. 1911, c. 5, s. 1; R. L. 1925, s. 4098; am. L. 1931, c. 38, s. 1; am. L. 1933, c. 87, s. 1; R. L. 1935, s. 5536; am. L. 1939, c. 203, s. 8; am. L. 1941, c. 237, s. 1; R. L. 1945, s. 10842; am. L. 1947, c. 199, s. 1.]

Note: § **10847.01,** added L. 1945, c. 67 (D-179), re fines in felony cases. §§ **10876-77,** repealed L. 1945, c. 111 (D-180); § **10878,** amended L. 1945, c. 111 (D-180).

Chapter 235. INQUESTS, CORONERS.

Series D-165: ACT 164

An Act to Amend Chapter 235 of the Revised Laws of Hawaii 1945, Relating to Inquests and Coroners, by Adding Thereto a New Section to Be Designated as Section 10908.01, Relating to Fees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 235 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, which section shall be designated as Section 10908.01 and shall read as follows:

"**Section 10908.01. Fees.** Upon the application by other than governmental agencies for a certified copy of any coroner's report and inquest, the coroner or deputy coroner shall collect the sum of two dollars ($2.00) as a governmental realization for the preparation and issuance of the same. All fees so collected shall be a general fund realization and shall be immediately deposited with the treasurer of the city and county of Honolulu or to the treasurer of the other respective counties." [L. 1947, c. 164, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 339, Act 164.**

Title 30: CRIMES.

Chapter 240. BRIBERY, etc.

Series D-166: ACT 188

An Act to Provide for the Forfeiture of Moneys and Other Property, Real or Personal, Used in Violation of Chapter 240 of the Revised Laws of Hawaii 1945, Relating to Bribery, and to Amend Said Chapter.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 240 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new subtitle and new sections to be numbered and to read as follows:

"**FORFEITURE OF PROPERTY**

"**Sec. 11075.01. Forfeiture of moneys and other property used or offered as bribe.** All moneys or other property, real or personal, offered, received or accepted as a bribe in violation of this chapter are forfeited to the county in which the offense is committed, subject to the provisions

of this subtitle, and the county attorney or public prosecutor of any county in which such offense occurs, or the attorney general, or any deputy or assistant of any such officer shall institute proceedings to enforce such forfeiture in the manner provided by this subtitle; **provided,** however, that if any such suit involves real property it shall be heard in the circuit court of the circuit concerned, and, if originally filed in a district court, it shall be transferred to the circuit court. If the offense or offenses with reference to which such forfeiture is sought to be enforced, occurred in more than one county, such property may be forfeited to the county in which suit is first brought under this subtitle. [L. 1947, c. 188, pt. of s. 1.]

Sec. 11075.02. Forfeiture of evidence. All moneys, personal property, and things of value received or tendered in evidence in any case, proceeding, or investigation in any court of the Territory of Hawaii, or before any officer thereof, which have been given, promised, received or accepted in violation of any of the provisions of this chapter shall, upon conviction of offenders in such case, proceeding, or investigation, by the court be declared forfeited to the county in which the offense is committed, subject, however, to the provisions of section 11075.03. [L. 1947, c. 188, pt. of s. 1.]

Sec. 11075.03. Recovery of forfeited moneys and property by innocent owners. Any moneys and property declared forfeited under section 11075.02 shall be held at such place as the court may order for a reasonable period fixed by the court, but not to exceed sixty days after entry of judgment of forfeiture. During such period any person, not convicted of an offense involving the illegal use of such moneys or property, claiming such moneys or property may institute an action against the county for the recovery of such moneys or property, and, if the court finds in such action that the plaintiff is the owner and lawfully entitled to the possession of said moneys or property and is without blame in connection with the illegal use thereof, the court shall order such moneys or property restored to such owner. [L. 1947, c. 188, pt. of s. 1.]

Sec. 11075.04. Procedure, where forfeiture not declared under section 11075.02. If the property forfeited under section 11075.01 is not declared forfeited under and pursuant to section 11075.02, proceedings to declare and enforce forfeiture under this section shall be commenced by written in-

formation, or by written complaint in rem against the property, in the name of the Territory signed by the county attorney or public prosecutor of the county or by the attorney general, or by any deputy or assistant of such officer. Such information or complaint may be verified on information and belief and shall set forth the ultimate facts upon which the claim to forfeiture is based. In the case of a suit in rem, the complaint shall set forth the names of any known alleged owners of or claimants to the property, who shall be entitled to service of a copy of the complaint and summons in the manner provided by law for civil cases. The property may be attached in connection with such suit in rem in the manner provided by law for attachment of similar property, except that no bond shall be required. Substituted service or service of process against unknown claimants shall be made in the manner provided by chapter 302. Any person interested may intervene at any time prior to the return day, and the court, for good cause shown, may allow intervention at any time prior to judgment. District and circuit courts of the Territory shall have concurrent jurisdiction to hear any information or suit under this section, except that, where it appears that the value of the property involved is more than one thousand dollars, the suit shall be heard in the circuit court, and, if originally filed in the district court, shall be transferred to the circuit court. The right to trial by jury shall be preserved, where demanded in the manner and within the time provided by law for civil suits triable by jury. [L. 1947, c. 188, pt. of s. 1.]

Section 2. If this Act, or said chapter 240 as amended by this Act, or any portion thereof, or the application thereof to any person or circumstances is held unconstitutional or invalid, the remainder of this Act or of said chapter, and the application thereof or of said portion to other persons or circumstances shall not be affected.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 512, Act 188.**

Series D-167: ACT 186

An Act Amending Chapter 240 of the Revised Laws of Hawaii 1945 by Adding Thereto a New Section Prohibiting Actual or Attempted Bribery in Connection With, or Attempted Fixing of, Professional or Amateur Games, Sports and Contests, Including Horse Racing, and Providing Criminal Penalties Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 240 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered section 11076 and to read as follows:

"**Sec. 11076. Bribery of participants in professional or amateur games, sports and contests.** (a) Whoever gives, promises or offers to any professional or amateur boxer or wrestler, or baseball, football, polo, tennis or basketball player, or any player who participates or expects to participate in any professional or amateur game or sport, or any jockey, driver, groom or any person participating or expecting to participate in any horse race or other similar contest, including owners of race tracks and their employees, stewards, trainers, judges, starters or special policemen, or to any manager, coach or trainer of any team or participant or prospective participant in any such game, contest or sport, any valuable thing with intent to influence him to, or to attempt to, lose, cause to be lost, or limit his or his team's margin of victory in, a baseball, football or basketball game, or boxing, wrestling, tennis or polo match, or a horse race, or any professional or amateur sport, game or contest, in which such player or participant or jockey or driver is taking part or expects to take part, or has any duty or connection therewith; and (b) whoever, being a professional or amateur baseball, football, basketball, tennis or polo player, boxer, wrestler, jockey, driver or groom, or participant or prospective participant in any such sport, game or contest, or a manager, coach or trainer of any team or individual participant or prospective participant in any such sport, game or contest, solicits or accepts, or agrees to accept, any valuable thing to influence him to, or to attempt to, lose, cause to be lost, or limit his or his team's margin of victory in, a baseball, football or basketball game, or boxing, wrestling, tennis or polo match, or horse race, or any sport, game or contest, in which he is

taking part, or expects to take part, or has any duty or connection therewith, is guilty of a felony, punishable by imprisonment for not more than five years or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment." [L. 1947, c. 186, s. 1.]

Section 2. If any provision of this Act, or the application thereof to any person or circumstances, is held unconstitutional or invalid, the remainder of this Act or the application thereof or of such provision to other persons or circumstances shall not be affected.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 401, Act 186.**

Note: § **11240.01,** added L. 1945, c. 63 (D-181), embezzlement by partner, co-owner.

Chapter 256. ESCAPE, etc.

Series D-168: ACT 30

An Act to Provide Penalties for Interference With Fish and Game Wardens.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 256 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered section 11262 and to read as follows:

"**Sec. 11262. Interference with fish and game wardens; penalty.** Any person who shall wilfully interfere or attempt to interfere in any way with any fish and game warden of the fish and game division, while such officer is making a legal arrest, or who shall interfere or attempt to interfere with any such officer in the legal performance of any other official duty, shall be deemed guilty of a misdemeanor and penalized by imprisonment for not more than thirty days, or by a fine of not more than fifty dollars, or by both fine and imprisonment." [L. 1947, c. 30, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1947.) **H.B. 538, Act 30.**

Note: § **11286,** added L. 1945, c. 49 (D-182), false report of crime. § **11377.01,** added L. 1945, c. 39 (D-183), scalpers.

Chapter 273. PICKETING AND PROTECTION OF LABOR.

Series D-169: ACT 143

An Act to Repeal Sections 11523, 11524 and 11525 of the Revised Laws of Hawaii 1945, Relating to Inducing Servants or Laborers to Leave Employment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Sections 11523, 11524** and **11525** of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **H.B. 174, Act 143.**

Note: **Sections 11520-11522** were **repealed** L. 1945, c. 12 (D-184). Hence this chapter is functus. § **11751,** amended L. 1945, c. 76 (D-185); § **11771,** amended L. 1945, c. 48 (D-186); § **12014.01,** added L. 1945, c. 212 (D-192); § **12015,** amended L. 1945, c. 215 (D-187).

Title 31: DECEDENTS' ESTATES.

Chapter 290. PROBATE, etc.

Series D-170: ACT 98

An Act to Amend Section 12022 of the Revised Laws of Hawaii 1945, as Amended, Relating to Creditors' Claims Against the Estates of Deceased Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12022** of the Revised Laws of Hawaii 1945 as amended, is hereby further amended by adding at the end thereof the following:

"A creditor, however, even though he has not filed his claim, holding as security therefor either real or personal property, may foreclose upon the security so held."

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 294, Act 98.**

Note: As amended by L. 1945, c. 273, and by **L. 1947,** c. 98, § 12022 now reads:

Sec. 12022. Creditors' claims; advertisement; barred when. Immediately after the appointment of any executor or administrator of any estate, he shall advertise in such newspaper or newspapers as the court shall direct, once in each of four successive weeks, a notice directed to all creditors of the deceased, and if the deceased was married then directed also to all creditors of the community of which the deceased was a member, to present their claim with proper vouchers or duly authenticated copies thereof, even if the claim is secured by mortgage on real estate, to him, either at his residence or at his place of business or at such other place as he may designate, within four (4) months from the first day of publication. And if such claims be not presented within four (4) months from the first day of

publication of the notice, they shall be forever barred and the executor or administrator shall not be authorized to pay them. Any claim otherwise proper shall be allowed, as a claim against the deceased or the community of which the deceased was a member or both, in accordance with law, notwithstanding that the claim may fail to designate or may improperly designate the obligor or obligors on the claim. A creditor, however, even though he has not filed his claim, holding as security therefor either real or personal property, may foreclose upon the security so held. [L. 1898, c. 37, s. 1; am. L. 1917, c. 188, s. 1; R. L. 1925, s. 2489; am. L. 1929, c. 28, s. 1; R. L. 1945, s. 12022; am. L. 1945, c. 273, s. 2; am. L. 1947, c. 98, s. 1.]

Note: §§ **12026-28,** amended L. 1945, c. 122 (D-188).

Series D-171: ACT 99

An Act to Amend Chapter 290 of the Revised Laws of Hawaii 1945, Relating to Decedents' Estates by Adding Thereto a New Section to be Numbered 12031-A Authorizing Payments Into Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 290 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, immediately following section 12031, a new section to be numbered 12031-A, to read as follows:

"**Sec. 12031-A. Payments into court.** When property is distributed to a distributee, legatee, heir or beneficiary who cannot be found, or who refuses to accept the same, or to give a proper voucher therefor, and the same consists of money, or corporate stocks, or bonds, the executor, administrator or trustee may deposit such property, in the name of the person entitled thereto, with the clerk of the circuit court in which the estate is pending in probate, or, in the case of a trust, with the clerk of the circuit court having jurisdiction over the subject matter of the trust, who shall give a receipt therefor and be liable upon his official bond therefor; and said receipt shall be deemed and received with the same force and effect as if executed by such distributee, legatee, heir or beneficiary." [L. 1947, c. 99, s. 1.]

Section 2. The provisions of this Act shall apply to estates in probate or trusts already existing, as well as to those hereafter created.

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 295, Act 99.**

Note: § **12037,** amended L. 1945, c. 206 (D-189); § **12037.01,** added L. 1945, c. 258 (D-190).

Series D-172: ACT 160

An Act to Amend Section 12046 of the Revised Laws of Hawaii 1945, Relating to the Audit of the Accounts of Clerks of the Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12046 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12046. Annual audit of accounts of clerk.** Any other law to the contrary notwithstanding, it shall be the duty of the auditor of the Territory to audit not less frequently than annually the accounts and transactions of the clerks of the circuit courts in their official capacity as guardians of minors or insane persons having small estates or as administrators of small estates, and to report the results of such audit to the judges of the respective courts." [L. 1943, c. 187, s. 1; R. L. 1945, s. 12046; am. L. 1947, c. 160, s. 1.]

Section 2. This Act shall take effect on July 1, 1947.

(Approved May 19, 1947.) **H.B. 282, Act 160.**

Note: § **12047.01,** added L. 1945, c. 199 (D-191), temporary residents; § **12100,** amended L. 1945, c. 273 (D-201); § **12108,** amended L. 1945, c. 212 (D-192); § **12115,** amended L. 1945, c. 212 (D-192).

Title 32: DOMESTIC RELATIONS.
Chapter 296. ANNULMENT, DIVORCE, etc.

Series D-173: ACT 122

An Act Relating to Restraining Orders in Divorce Proceedings, and Amending Chapter 296 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 296 of the Revised Laws of Hawaii 1945 is amended by adding a new section to be entitled "12224.01" and to read as follows:

"**Sec. 12224.01. Restraining order.**. Whenever it is made to appear to the judge after the filing of any libel, that a party thereto may dispose or encumber property, or any part thereof, such judge may issue a restraining order to prevent such disposal or encumbrance, and shall enjoy in respect thereof the powers of an equity judge." [L. 1947, c. 122, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 727, Act 122.**

Note: § **12233,** amended L. 1945, c. 273 (D-201).

Chapter 298. CHILDREN.

Series D-174: ACT 9

An Act to Provide for the Removal of the Disability of the Minority of Veterans and Their Minor Spouses for the Purpose of Obtaining Benefits Under the Servicemen's Readjustment Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 12261.01. Minority of veteran or of his spouse, no bar when.**]

Section 1. The disability of minority of any person who shall be otherwise eligible for guaranty or insurance of a loan pursuant to the Servicemen's Readjustment Act of 1944 (P. L. 346, 78th Cong.), as amended, or as the same may be amended or supplemented, and of the minor spouse of any eligible veteran in connection with any transaction entered into pursuant to said Act, is hereby removed, for all purposes in connection with such transaction including, but not limited to, incurring of indebtedness or obligations and acquiring, encumbering, selling, releasing, or conveying property, or any interest therein, and litigating or settling controversies arising therefrom, if all or part of any obligations incident to such transaction be guaranteed or insured by the administrator of Veterans' Affairs pursuant to such Act; **provided** nevertheless, that this Act shall not be construed to impose any other or greater rights or liabilities than would exist if such person and such spouse were under no such disability. [L. 1947, c. 9, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1947.) **S.B. 8, Act 9.**

Note: § **12265,** amended L. 1945, c. 187 (D-193); § **12267,** amended L. 1945, c. 142 (D-154).

Series D-175: ACT 47

An Act to Amend Chapter 298 of the Revised Laws of Hawaii 1945, as Amended, by Amending Sections 12271, 12276 and 12276.01 Thereof, Relating to Adoption.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12271** of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the phrase "not theirs by birth", appearing in the fifth line of said section on page 1551 of said Revised Laws, and by inserting, in lieu of said phrase, the phrase "toward whom he or they do not sustain the legal relationship of parent and child".

Section 2. **Section 12276** of the Revised Laws of Hawaii 1945, as amended in toto by Act 40 of the Session Laws of 1945, is hereby further amended by amending the last sentence of the second paragraph thereof, appearing on page 301 of said Session Laws, to read as follows:

"At any time within one year from the date of entry of any decree of adoption, the judge may, for good cause, set aside or modify such decree and, in connection therewith, may make appropriate orders concerning the custody of the minor child and the disposition and handling of the record of adoption by the bureau of vital statistics of the board of health. **Provided,** however, that the setting aside or modification of any decree of adoption shall not affect any property rights which have become vested between the date of the entry of such decree or the effective date of such decree and the effective date of any order setting aside or modifying such decree of adoption."

Section 3. **Section 12276.01** of the Revised Laws of Hawaii 1945, as enacted by Act 40 of the Session Laws of Hawaii 1945, is hereby amended by inserting, immediately after the comma following the word "Territory" in the ninth line of said section as set forth on page 302 of the Session Laws of Hawaii 1945, the phrase "or if the birth of the child has not been registered with the bureau of vital statistics,".

Section 4. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **H.B. 503, Act 47.**

Note: As so amended, §§ 12271, 12276, and 12276.01 read:

Sec. 12271. Written consent when and by whom. Any proper person, not married, or married to the father or mother of a minor child, or a husband and wife jointly, may petition a judge of the circuit court of the circuit in which they reside, or a judge of the circuit court of the circuit in which the child resides for leave to adopt a minor child toward whom he or they do not sustain the legal relationship of parent and child, and for a change of the name of the child. If the child is adopted by a person married to the father or mother of the child the same reciprocal rights and duties which theretofore existed between such natural parent and child shall be and remain the same, subject, however, to the rights acquired by and the duties imposed upon the adoptive parent by reason of the adoption.

Written consent must be given to the adoption by the child, if of the age of sixteen years; and in all cases of adoption written consent shall be given by each of the living legal parents who is not hopelessly insane, habitually intemperate, or has not abandoned the child for a period of six months, or who has not voluntarily surrendered the care and custody of the child to another for a period of two years or over, which fact of such insanity, intemperance, abandonment or surrender shall be found by the judge at the time of hearing the petition and such finding noted in

the order. If the parents are unknown or have so abandoned or surrendered the child, the consent to adoption shall be signed by the legal guardian of the child; or if there be no legal guardian, then the court may appoint some suitable person to act in the proceedings as the next friend of the child; **provided,** however, that no hearing upon a petition for adoption, where the written consent of each of the living parents has not been obtained, shall be had until such non-consenting parent shall have had due notice, actual or constructive, as hereinafter provided, of the time and place of hearing. [L. 1915, c. 47, s. 1; am. L. 1919, c. 3, s. 1; am. L. 1921, c. 129, s. 1; R. L. 1925, s. 3034; R. L. 1935, s. 4520; R. L. 1945, s. 12271; am. L. 1947, c. 47, s. 1.]

(Note: The change of the word "of" to "by" in the first line of the second paragraph corrects a clerical error that has persisted through three revisions.)

Sec. 12276. Decree. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the judge may enter a decree of adoption if he is satisfied (a) that the minor child is physically, mentally and otherwise suitable for adoption by the petitioners, (b) that the petitioners are fit and proper persons and financially able to give the child a proper home and education, and (c) that the adoption will be for the best interests of the child, which decree shall take effect upon such date as may be fixed therein by the judge, such date to be not later than six months after the date of the entry of the decree; **provided,** however that, before entering such decree, the judge may, in his discretion, notify the director of the department of public welfare of the Territory or his agent of the pendency of such petition for adoption and allow a reasonable time for the director to make such investigation as he may deem proper as to the fitness of the petitioners to adopt the child, and as to whether the best interests of the child will be subserved by such adoption. The director shall make a report to the judge within the time so required, reporting the fact disclosed without recommendation. If the judge shall determine that such report discloses facts adverse to the petitioners or indicates that the best interests of the child will not be subserved by adoption, he shall thereupon give notice of the same to the petitioners and afford them a reasonable opportunity to rebut the report.

The decree may provide that, during the period between the entry thereof and the effective date of adoption, the care, custody and control of the child be given to the petitioners, who, in such event, shall be liable during such period for the care, maintenance and support of the child and for its torts in the same manner as parents, and may further provide for the supervision and visitation of the child by said director or his agent and for such reports in connection therewith as the judge may require. At any time within one year from the date of entry of any decree of adoption, the judge may, for good cause, set aside or modify such decree and, in connection therewith, may make appropriate orders concerning the custody of the minor child and the disposition and handling of the record of adoption by the bureau

of vital statistics of the board of health. **Provided,** however, that the setting aside or modification of any decree of adoption shall not affect any property rights which have become vested between the date of the entry of such decree or the effective date of such decree and the effective date of any order setting aside or modifying such decree of adoption.

The family name of the adoptive child shall be changed to that of the adoptive parents and the given name of the child may be fixed or changed at the same time. Such change of name shall not be recorded in the bureau of conveyances. [R. L. 1945, s. 12276; am. L. 1945, c. 40, s. 1; am. L. 1947, c. 47, s. 2.]

Sec. 12276.01. Record of adoption. A certified copy of the decree of adoption shall be sent to the bureau of vital statistics of the board of health. Such bureau shall cause to be made a new record of the birth in the new name of the child with the names of the adoptive parents, and shall then cause to be sealed and filed the original birth certificate of the child with the decree of the judge, and such sealed package shall be opened only by order of court. If the birth of the child occurred outside of the Territory, or if the birth of the child has not been registered with the bureau of vital statistics, the clerk of the court shall, upon request of the adoptive parents, furnish them with a certified copy of the decree of adoption. [L. 1945, c. 40, pt. of s. 2; am. L. 1947, c. 47, s. 3.]

Chapter 299. ILLEGITIMATES: PATERNITY PROCEEDINGS.

Series D-176: ACT 57

An Act to Amend Chapter 299 of the Revised Laws of Hawaii 1945, as Amended, Relating to Illegitimate and Paternity Proceedings.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12301** of the Revised Laws of Hawaii 1945, as amended by Act 177 of the Session Laws of Hawaii 1945, is hereby further amended as follows:

(a) By amending the second paragraph thereof on page 1555 of said Revised Laws by deleting therefrom the words "six months" appearing in the second and third lines of said paragraph, and by inserting in lieu thereof the words "two years".

(b) By adding, at the end of said section a new paragraph, to read as follows:

"The fact that a child shall be born dead or shall die at a later date prior to the filing of an application as above provided, or during the pendency of the proceedings, shall not operate as a bar to the issuance of a warrant and the entry of a judgment under the provisions of this chapter."

Note: § **12302,** amended L. 1945, c. 177 (D-195).

Section 2. Chapter 299 of the Revised Laws of Hawaii 1945, as amended by Act 177 of the Session Laws of Hawaii 1945, is hereby further amended by adding thereto a new section, to be numbered section 12302.01, and to read as follows:

"**Sec. 12302.01. Guardian ad litem for minor accused; notice to and liability of parents.** If at the time of the preliminary examination as provided in section 12302, or prior or subsequent thereto, it shall appear to the satisfaction of the judge of the juvenile court that the accused is a minor, the judge shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of such minor and may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor accused cannot be found, the notice above provided for may be served in such manner as the judge may direct, pursuant to the provisions of section 10058 to 10062 inclusive." [L. 1947, c. 57, s. 2.]

Section 3. **Section 12303** of the Revised Laws of Hawaii 1945, as amended in toto by Act 177 of the Session Laws of Hawaii 1945, is hereby further amended by adding, between the third and fourth paragraphs thereof, on page 305 of said Session Laws of 1945, a new paragraph to read as follows:

"In the event that the child shall die before it reaches sixteen years of age, the judgment may include, or may be amended to include, reasonable funeral expenses not to exceed the sum of one hundred fifty dollars. The judgment may also include a reasonable fee for any guardian ad litem appointed under the provisions of section 12302.01."

Note: § 12304, amended L. 1945, c. 177 (D-195).

Section 4. Section 12306 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12306. Compromise of case; consent of court necessary.** No application filed under the provisions of this chapter shall be withdrawn, dismissed, or settled by agreement with the putative father without the consent of the court, of the mother and of any person or persons who may have intervened under the provisions of section 12301, unless provision is made to the satisfaction of the court to relieve and indemnify any parent, guardian, county or the Territory from all costs and charges which have accrued or may accrue and which might have been ordered to be paid by the accused under the provisions of section 12303." [L. 1913, c. 101, s. 7; R. L. 1945, s. 12306; am. L. 1947, c. 57, s. 4.]

Section 5. Section 12308 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12308. Recovery by civil action.** The mother of the child, and any parent, guardian or other person as the next friend of the child, county, or the Territory, respectively, may, at any time after the entry of a judgment or order pursuant to the provisions of section 12303, recover by civil action against the accused any amount of money for which the accused is liable to them respectively in pursuance of any such judgment or order of the court." [L. 1913, c. 101, s. 9; R. L. 1945, s. 12308; am. L. 1947, c. 57, s. 5.]

Section 6. **Section 12310** of the Revised Laws of Hawaii 1945 is hereby amended by deleting the words "six months" appearing in the title and in the first line thereof, on page 1557 of said Revised Laws, and by inserting in lieu thereof the words "two years".

Section 7. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **H.B. 617, Act 57.**

Note: As so amended §§ 12301, 12303 and 12310 read:

Sec. 12301. Application for arrest of alleged father; time limit; examination. Any unmarried woman or married woman, who has separated from and was not living with her husband prior to and at the time the child was conceived, when quick with child or within two years after the delivery thereof, may apply to the judge of the juvenile court of the circuit in which she or the alleged father of the child resides, or in which she was delivered of the child, for a warrant for the arrest of the person whom she accuses of being the father thereof.

The warrant may also be applied for by either of the parents or guardian of the mother, or by any person as the next friend of the child within two years after the date of its birth. If after the complaint has been made either by the mother or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of such persons may prosecute the case to final judgment for the benefit of the parent, guardian or the child.

Before issuing the warrant, the judge shall examine the applicant under oath concerning the residence, the character and married or single condition of the mother when the child was begotten, the time and place where it was begotten, where and when it was born, if born, and such other circumstances as the judge shall deem necessary or proper for testing the truth of the accusation, and shall reduce the statement of the applicant to writing and sign the same.

The fact that a child shall be born dead or shall die at a later date prior to the filing of an application as above provided, or during the pendency of the proceedings, shall not operate as a bar to the issuance of a warrant and the entry of a judgment under the provisions of this chapter. [L. 1913, c. 101, s. 2; R. L. 1925, s. 3054; am. L. 1931, c. 14, s. 1; R. L. 1935, s. 4550; R. L. 1945, s. 12301; am. L. 1945, c. 177, s. 1; am. L. 1947, c. 57, s. 1.]

(See s. 12279, support, inheritance; s. 12280, legitimation; s. 12310, statute of limitations.)

Sec. 12303. Trial; judgment. If the accused shall fail to appear, the bond for his appearance as aforesaid shall be forfeited; but the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and the court shall upon the findings of the judge, or the verdict of the jury, make such orders as it shall deem proper as though the accused were in court.

If the accused acknowledges in open court the paternity of the child, or if at the trial the finding of the court or jury be against the accused, the court, in rendering judgment thereon, may make an order for the payment of the prenatal medical care and costs of the mother's confinement for the purpose of childbirth and the expenses of childbirth in such amount or amounts as may be deemed reasonable by the court, and shall make an order for the payment of keeping, maintenance and education of the child as may seem proper, until the child reaches sixteen years of age, unless the child, prior thereto, is adopted, emancipated or becomes self-supporting, of such sum of money, in such installments, and in such manner, as shall to the court seem best, taking into consideration the financial standing of the defendant, his income, earning capacity, and those of his family who are dependent upon him for their support, maintenance and education.

In the event that the child shall die before it reaches sixteen years of age, the judgment may include, or may be amended to include, reasonable funeral expenses not to exceed the sum of one hundred fifty dollars. The judgment may also include a reasonable fee for any guardian ad litem appointed under the provisions of section 12302.01.

In case of forfeiture of the appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the accused. [L. 1913, c. 101, s. 4; R. L. 1945, s. 12303; am. L. 1945, c. 177, s. 3; am. L. 1947, c. 57, s. 3.]

Sec. 12310. Prosecution within two years; county attorney to prosecute. No prosecution under this chapter shall be begun more than two years after the birth of the child; **provided** that the time during which the person alleged to be the father thereof shall be absent from the Territory shall not be computed.

It shall be the duty of the county attorney to prosecute all proceedings arising under this chapter. [L. 1913, c. 101, s. 11; R. L. 1925, s. 3063; am. L. 1931, c. 14, s. 5; R. L. 1935, s. 4559; R. L. 1945, s. 12310; am. L. 1947, c. 57, s. 6.]

Chapter 300. JUVENILE COURTS.

Series D-177: ACT 56

An Act to Amend Chapter 300 of the Revised Laws of Hawaii 1945, as Amended, by Amending Sections 12321, 12323, 12324 and 12329 Thereof, and by Adding Thereto a New Section to Be Appropriately Numbered by the Secretary of Hawaii, Relating to Juvenile Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12321** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, at the end thereof, a new sentence to read as follows:

"**Provided,** however, that no such criminal proceedings shall be instituted against any child under eighteen years of age without the consent of the judge of the juvenile court which would have jurisdiction over such child under the provisions of this chapter, and **provided,** further, that no criminal proceedings shall be instituted against any person eighteen years of age or over for any crime or misdemeanor for which proceedings shall previously have been instituted under the provisions of this chapter without the consent of the judge of the juvenile court in which such proceedings under the provisions of this chapter shall previously have been instituted."

Note: This section and following ones are rewritten, as amended, at the end of this Act. § **12322,** amended **L. 1947,** c. 230 (D-178) post.

Section 2. **Section 12323** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, at the end thereof, a new paragraph to read as follows:

"The records of the juvenile court and of any police department, or any juvenile crime prevention bureau thereof, relating to any proceedings under this chapter shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the administration of the provisions of this chapter, except as otherwise ordered by the court. **Provided,** however, that the records of any police department, concerning traffic accidents in which any child subject to the provisions of this chapter shall be involved, shall be available for inspection under the same terms and conditions as are set forth in section 6651."

Section 3. **Section 12324** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, at the end thereof, a new paragraph to read as follows:

"**Provided,** however, that the judge, if he shall determine that the best interests of the child so require, may cause any dependent child under twelve years of age who might otherwise be adjudged a delinquent child, as that term is defined in this chapter, to be examined by a psychiatrist or other physician duly qualified by special professional training and experience in the practice of child psychiatry, or a psychologist in the psychological clinic of the Territory, or a psychologist certified by said psychological clinic to be qualified in the practice of child psychology, and, if the written report of the results of such examination shall so recommend, may adjudge such child to be a delinquent child, notwithstanding the age of such child, and may thereafter deal with such child as a delinquent child under the provisions of this chapter."

Section 4. **Section 12329** of the Revised Laws of Hawaii 1945, as amended by Act 4 of the Session Laws of Hawaii 1945, is hereby further amended by adding thereto at the end thereof a new paragraph to read as follows:

"If the moneys appropriated for the purpose of paying expenses authorized under the provisions of this section shall at any time be insufficient to meet such expenses as they are incurred under the judge's orders, such expenses shall, upon certification thereof by the judge, be paid out of the public welfare fund existing under the provisions of chapter 98. **Provided,** however, that payments out of the public welfare fund hereunder, for any juvenile court, shall not, during any biennium, exceed an amount equal to fifty per centum of the amount appropriated for such court, for such purpose, for expenditure during such biennium."

Section 5. Chapter 300 of the Revised Laws of Hawaii 1945, as amended by Act 142 of the Session Laws of 1945, is hereby further amended by adding thereto a new section to be appropriately numbered by the Secretary of Hawaii, to read as follows:

"**Sec. 12324.01. Age limits; determination of jurisdiction.** The provisions of this chapter shall apply to any such child who is within the above prescribed age limits at the time of his arrest or apprehension or at the time a petition is filed as provided in section 12324, whichever shall be the earlier, notwithstanding such child may be over eighteen years of age at the time of the hearing and determination of the matter as above provided."

Section 6. This Act shall take effect upon its approval.
(Approved May 8, 1947.) **H.B. 598, Act 56.**
Note: As so amended, §§ 12321, 12323, 12324 and 12329 read:

Sec. 12321. Dependents and delinquents. Evidence in proceedings inadmissible elsewhere. Proceedings not criminal. For the purpose of this chapter, the words "dependent child" shall mean any minor under eighteen years of age who, for any reason, is destitute or homeless or abandoned or dependent upon the public for support or who has no proper parental care or guardianship, or whose home, by reason of neglect, cruelty or depravity on the part of his parent, guardian, or other person in whose care he may be, is an unfit place for such child, and shall also mean any minor under twelve years of age who might otherwise be adjudged a delinquent child as that term is herein defined; and the words "delinquent child" shall mean any minor over twelve years of age and under eighteen years of age who violates any law of the Territory or any county ordinance or who is incorrigible, vicious or immoral, or who is growing up in idleness or crime or who is a habitual truant from school or who habitually wanders about the streets in public places during school hours without lawful occupation or employment. Any dependent or delinquent child may be proceeded against in the manner hereinafter provided. Any evidence given in any cause as hereinafter provided shall not in any civil, criminal or other cause in any court be lawful or proper evidence against such child for any purpose whatever except in subsequent cases against the same child under this chapter. Proceedings under this chapter shall not be deemed to be criminal proceedings and such proceedings shall not prevent the trial by criminal procedure in the proper courts of children over fourteen years of age charged with the commission of a felony. **Provided,** however, that no such criminal proceedings shall be instituted against any child under eighteen years of age without the consent of the judge of the juvenile court which would have jurisdiction over such child under the provisions of this chapter, and **provided,** further, that no criminal proceedings shall be instituted against any person eighteen years of age or over for any crime or misdemeanor for which proceedings shall previously have been instituted under the provisions of this chapter without the consent of the judge of the juvenile court in which such proceedings under the provisions of this chapter shall previously have been instituted. [L. 1909, c. 22, s. 1; R. L. 1925, s. 2260; am. L. 1931, c. 46, s. 1; R. L. 1945, s. 12321; am. L. 1947, c. 56, s. 1.] (See s. 12227, care, custody, etc., of children. 29 H. 835.)

Sec. 12323. Trial, record. All examinations or trials under this chapter shall be held in the court room or in chambers or in a room in the court house or in any suitable apartment. The proceedings and findings of the court shall be entered in a book or books to be kept for that purpose and to be known as the juvenile record. The judge shall try all persons under eighteen years of age at a time apart from that at which older offenders are tried, and may exclude any person whose presence he deems prejudicial to the interests of the child, when such person does not have an interest in the case.

The records of the juvenile court and of any police department, or any juvenile crime prevention bureau thereof, relating to any proceedings under this chapter shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the administration of the provisions of this chapter, except as otherwise ordered by the court. **Provided,** however, that the records of any police department, concerning traffic accidents in which any child subject to the provisions of this chapter shall be involved, shall be available for inspection under the same terms and conditions as are set forth in section 6651. [L. 1905, c. 28, pt. of s. 4; L. 1909, c. 22, s. 3; R. L. 1945, s. 12323; am. L. 1947, c. 56, s. 2.]

Sec. 12324. Procedure; probation; commitment. Upon the filing with the judge of a sworn petition, setting forth upon knowledge or upon information and belief facts showing that any child under eighteen years of age resident within the circuit is a delinquent or dependent child the judge may, before further proceedings are had in the case, give notice thereof to a duly appointed probation officer who shall have opportunity allowed him to investigate the facts. In such case the probation officer shall immediately proceed to make a full examination of the parentage and surroundings of the child and all the facts of the case and report the same to the judge in writing and if after full investigation it shall appear to the judge that the public interest and the interest of the child will be best subserved thereby, a summons shall issue, reciting the substance of the petition nad requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time which shall be stated in the summons. If such person is other than the parent or guardian of such child, then such parent or guardian shall be notified of the pendency of the case, if he is a resident of the circuit and can be found. If any person summoned as herein provided shall fail, without reasonable cause, to appear with the child or to comply with the order of the judge, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties summoned fail to obey the summons and in any case when it shall appear to the court that such summons might be ineffectual, upon complaint on oath in writing a similar summons as near as may be may issue to the child or a warrant of arrest may issue, reciting the substance of the complaint and requiring the officer to whom it is directed to bring such child before the judge to be dealt with according to law, and such child may be committed to a probation officer or such other person as the judge may designate, pending the final disposition of the case.

On the return of the summons or warrant, or as soon thereafter as may be, the judge shall proceed to hear and dispose of the case, and if the allegations against the child are proved, the court may adjudge the child a delinquent or dependent child as the case may be. If it shall appear to the judge that the public interests and the interests of such child will be best subserved thereby, he may order the return of the child to his parents or guardians or friends, or he may place him, if delinquent, under probation

as hereinafter provided and in all cases he may decree the child found delinquent or dependent to be the ward of the court as far as his person is concerned, and in such cases, where any child has been decreed to be the ward of the court, the authority of the judge over his person shall continue until the judge shall otherwise decree.

A child found delinquent may be placed on probation for such time during his minority and upon such conditions as the judge may determine and such child so released on probation may be furnished with a written statement of the terms and conditions of release. At any time during the probationary term of a child released on probation as aforesaid, the judge may, in his discretion, revoke or terminate the probation. If at any time before discharge the child be found to be wilfully wayward, incorrigible or unmanageable and in any case upon an adjudication of delinquency, if in the opinion of the judge the welfare of the child and the public interests so require, the judge may cause him to be sent to the industrial school, or to any institution authorized by law to receive such child. And in such case, the report, if any, of the probation officer shall be attached to the mittimus and the child shall be placed in charge of some person designated by the judge to be conveyed to the institution; **provided** that when a girl is to be conveyed to any institution, the judge shall appoint a suitable woman to accompany such girl. No child who is adjudged a dependent child shall be committed to any industrial school.

Provided, however, that the judge, if he shall determine that the best interests of the child so require, may cause any dependent child under twelve years of age who might otherwise be adjudged a delinquent child, as that term is defined in this chapter, to be examined by a psychiatrist or other physician duly qualified by special professional training and experience in the practice of child psychiatry, or a psychologist in the psychological clinic of the Territory, or a psychologist certified by said psychological clinic to be qualified in the practice of child psychology, and, if the written report of the results of such examination shall so recommend, may adjudge such child to be a delinquent child, notwithstanding the age of such child, and may thereafter deal with such child as a delinquent child under the provisions of this chapter. [L. 1909, c. 22, s. 4; am. L. 1917, c. 9, s. 1; R. L. 1925, ss. 2263, 2264; am. L. 1931, c. 46, s. 2; L. 1932, c. 240, s. 2; R. L. 1935, s. 4613; R. L. 1945, s. 12324; am. L. 1947, c. 56, s. 3.]

Note: § **12325.01,** added **L. 1947,** c. 50 (D-179), post.

Sec. 12329. Care and custody of dependent and delinquent children; expenses. A delinquent or dependent child while under the orders of the judge, shall be in the care and custody of the probation officer or such other person or institution as the judge may designate, and all necessary expenses incurred in the proper care of such child shall, if necessary, be paid out of such moneys as may be appropriated for the expenses of circuit courts; **provided,** however, that the judge may, at any time, or whenever any dependent or delinquent child has been committed to the care of any public or private institution or to the care of some reputable citizen, cite

the parent or parents of the child to appear before him to show cause why the parent or parents should not pay such sum or sums as may be in the discretion of the judge necessary for the maintenance and support of the child. The judge may make such orders for the maintenance and support of the child as the judge may deem just and reasonable, having regard to the financial ability of the parent or parents and all other circumstances of the case, and may enforce the orders by summary process; **provided,** further, that no judge or probation officer shall be entitled to receive any compensation for any services performed under this chapter, except as otherwise provided for by law.

If the moneys appropriated for the purpose of paying expenses authorized under the provisions of this section shall at any time be insufficient to meet such expenses as they are incurred under the judge's orders, such expenses shall, upon certification thereof by the judge, be paid out of the public welfare fund existing under the provisions of chapter 98. **Provided,** however, that payments out of the public welfare fund hereunder, for any juvenile court, shall not, during any biennium, exceed an amount equal to fifty per centum of the amount appropriated for such court, for such purpose, for expenditure during such biennium. [R. L. 1945, s. 12329; am. L. 1945, c. 4, s. 1; am. L. 1947, c. 56, s. 4.]

Series D-178: ACT 230

An Act to Amend Sections 12322 and 12332 of the Revised Laws of Hawaii 1945, as Amended, Relating to Juvenile Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12322 of the Revised Laws of Hawaii 1945, as amended by Act 142 (Series D-154) of the Session Laws of Hawaii 1945, is hereby further amended to read as follows:

"**Sec. 12322. Judges, jurisdiction.** The circuit judges sitting in chambers and the circuit judge of the first circuit who is judge of the juvenile court shall have original jurisdiction in all cases under sections 12321 to 12329 inclusive, and the court held under said sections by any such judge of the second, third or fifth judicial circuit shall be termed the juvenile court; in the first circuit only the court held by the judge of the juvenile court shall be termed the juvenile court but the circuit judges sitting in chambers nevertheless shall have jurisdiction in such cases, subject to the pro-

visions of section 9655. **Provided** that in the counties of Hawaii, Maui and Kalawao the several district magistrates shall have concurrent jurisdiction, in their respective districts with the circuit judges of the circuits within which their districts are situated; and **provided** that the circuit judges of the first, second and third judicial circuits may entertain jurisdiction of any case disposed of by a district magistrate of the circuit, notwithstanding such disposition by such district magistrate. In case of the absence, inability or disqualification of the judge, any other circuit judge may act in his place by assignment of the chief justice of the supreme court." [L. 1909, c. 22, s. 2; am. L. 1943, c. 85, s. 1; R. L. 1945, s. 12322; am. L. 1945, c. 142, s. 6; am. L. 1947, c. 230, s. 1.]

Section 2. Section 12332 of the Revised Laws of Hawaii 1945, as amended by Act 142 (Series D-154) of the Session Laws of Hawaii 1945, is hereby further amended to read as follows:

"**Sec. 12332. Probation officers.** It shall be the duty of every circuit judge and district magistrate, except in the first circuit, to appoint not less than three probation officers in the circuit or district in which he has jurisdiction, and in the first circuit the judge of the juvenile court may appoint not less than three probation officers in addition to those authorized by section 9771; all probation officers so appointed shall serve without pay. Within the scope of their duties any of the probation officers so appointed shall have the powers and privileges of a police officer." [L. 1905, c. 28, s. 1; am. L. 1923, c. 240, s. 1; R. L. 1945, s. 12332; am. L. 1945, c. 142, s. 7; am. L. 1947, c. 230, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 458, Act 230.**

Series D-179: ACT 50

An Act Providing the Right of Appeal From the Juvenile Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 300, Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be appropriately numbered by the secretary of Hawaii to read as follows:

"Sec. 12325.01. **Rehearing: Appeal.** The decisions, judgments, orders, or decrees of a judge exercising jurisdiction as judge of a juvenile court shall be subject to judicial review only as follows:

Within ten days from the date of the entry of any such decision, judgment, order or decree, any party directly affected thereby, including a parent of any alleged dependent or delinquent child, may petition the judge for a rehearing and reconsideration of the facts involved. Such petition shall set forth the grounds on which a rehearing is requested and shall be sworn to by the petitioner. A copy thereof shall be served upon the attorney general of the Territory, who shall represent the interests of the Territory in the matter at such rehearing and in connection with any subsequent appeal. As soon thereafter as may be practicable, the judge shall proceed with the rehearing of the case, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon such rehearing and his determination and disposition of the case thereafter, and any decision, judgment, order or decree affecting the child and entered as a result of such rehearing shall be set forth in writing and signed by the judge. Any party deeming himself aggrieved by any such decision, judgment, order or decree, entered following a rehearing as in this section provided, shall have the right to appeal therefrom to the supreme court of the Territory of Hawaii upon the same terms and conditions as are set forth in section 9503, **provided,** however, that no such petition for rehearing or appeal shall operate as a stay of any such decision, judgment, order or decree unless the judge of the juvenile court shall so order; **provided,** further, that no informality or technical irregularity in the proceedings prior to the rehearing hereinabove provided for shall constitute grounds for the reversal of any such decision, judgment, order or decree by the supreme court." [L. 1947, c. 50, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1947.) **H.B. 253, Act 50.**

Chapter 301. MARRIAGE, etc.

Series D-180: ACT 43

An Act to Amend Chapter 301 of the Revised Laws of Hawaii 1945, as Amended, by Amending Sections 12352 and 12358 Thereof, Relating to Marriage.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12352** of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto, at the end thereof, a new paragraph to read as follows:

"No license shall be issued to any minor ward of a juvenile court without the written consent of the judge of such court."

Section 2. **Section 12358** of the Revised Laws of Hawaii 1945, is hereby amended by inserting in the second line thereof, on page 1563 of said Revised Laws, following the comma after the word "dead", the phrase "or who is a ward of a juvenile court,".

Section 3. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **S.B. 290, Act 43.**

Note: As so amended, §§ 12352 and 12358 read:

Sec. 12352. Consent of parent or guardian. Whenever any person who is under the age of twenty is to be married, the written consent, under oath, of his or her parents, or guardian or other person in whose care and custody he or she may be, shall accompany the application for a license to marry.

No license shall be issued to any minor ward of a juvenile court without the written consent of the judge of such court. [C. C. 1859, s. 1291; R. L. 1925, s. 2944; am. L. 1929, c. 104, s. 1; R. L. 1935, s. 4631; R. L. 1945, s. 12352; am. L. 1947, c. 43, s. 1.]

Note: § **12355,** amended **L. 1947,** c. 21 (D-181), post.

Sec. 12358. Persons under age. Whenever any person who is under the age of twenty, whose parents are dead, or who is a ward of a juvenile court, applies for a license to marry, he or she shall set forth, in the statement accompanying the application, the name of his or her guardian or of any other person in whose care and custody he or she may be. [L. 1917, c. 189, s. 2; R. L. 1925, s. 2948; am. L. 1929, c. 104, s. 4; R. L. 1935, s. 4637; R. L. 1945, s. 12358; am. L. 1947, c. 43, s. 2.]

Series D-181: ACT 21

An Act to Amend Section 12355 of the Revised Laws of Hawaii 1945, Relating to Marriage License Agents and Fees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12355 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12355. Agent to grant; fee.** (a) The board of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. Any agent appointed under this paragraph and receiving an application for a marriage license shall collect from the applicants for such license two dollars, of which such agent, except in the district of Honolulu, shall retain one dollar for his benefit and compensation and shall remit the other dollar to the treasurer of the Territory as a general realization of the Territory.

(b) The board of health may appoint as regular employees under the civil service and classification laws the number of suitable persons as agents authorized to grant marriage licenses in the district of Honolulu for whom provision has been made in the general appropriation Act. In the case of such agents, the full amount collected from applicants shall be remitted to the treasurer of the Territory as a general realization of the Territory.

(c) Every agent appointed under this section shall be authorized to administer the oaths required by this chapter to be taken." [R. L. 1945, s. 12355; am. L. 1947, c. 21, s. 1.]

Section 2. This Act shall take effect on July 1, 1947.

(Approved April 28, 1947.) **S.B. 212, Act 21.**

Note: § **12356.01,** added L. 1945, c. 136 (D-197), pre-marital examination.

Series D-182: ACT 83

An Act to Amend Section 12357 of the Revised Laws of Hawaii 1945, Relating to and Providing for the Issuance of Marriage Licenses to Divorced Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12357 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12357. Of divorced person.** (a) Before granting a marriage license to an applicant therefor who is a divorced person, the agent authorized to grant marriage licenses

shall require such applicant to produce before such agent the original certificate or decree of every divorce of such applicant or a duly certified copy thereof.

(b) The requirement in paragraph (a) of this section shall not apply in reference to the pending application of such applicant for a marriage license if, upon the sworn petition of such applicant and a hearing under oath on said petition, a circuit judge shall find that such applicant is divorced and not married and is unable with reasonable effort and in a reasonable time to produce the original certificate or decree of every divorce of such applicant or a duly certified copy thereof, and if the circuit judge shall order that the requirement in paragraph (a) shall not apply in reference to the pending application of such applicant for a marriage license, and if a duly certified copy of the finding and order of the circuit judge shall be presented to the agent authorized to grant marriage licenses.

Such judge may, in his discretion, require as a condition of such order that the applicant communicate, in such manner as the judge may designate, with the court which granted the divorce, requesting that the latter forward a certificate of divorce or a certified copy of the decree by air mail or otherwise, and the judge may require that the applicant make such deposit to cover the cost of securing such certificate, decree or certified copy thereof as he may deem sufficient to insure receipt and production thereof at the earliest date reasonable under the circumstances.

(c) No finding or order or finding and order by a circuit judge under paragraph (b) of this section shall be effective for any purpose except to determine the applicability of the requirement in paragraph (a).

(d) Within the meaning of this section a person is not a divorced person if he has never been legally married or if every person to whom he has been legally married is dead." [L. 1866, p. 3; repealed L. 1870, c. 10, s. 1; re-enacted L. 1874, c. 51, s. 2; am. L. 1903, c. 22, s. 2; R. L. 1935, s. 4636; R. L. 1945, s. 12357; am. L. 1947, c. 83, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **H.B. 483, Act 83.**

Note: § **12358,** amended **L. 1947,** c. 43 (D-180); §§ **12366** and **12366.01,** L. 1945, c. 5 (D-198); § **12367,** repealed L. 1945, c. 273 (D-201), also §§ **12373-5** repealed; § **12371,** amended L. 1945, c. 254 (D-199); § **12372,** amended L. 1945, c. 273 (D-201); § **12387,** amended L. 1945, c. 145 (D-200); § **12391.01-.18,** new L. 1945, c. 273 (D-201).

Title 34: GUARDIANS AND TRUSTEES.

Chapter 305. GUARDIANS AND WARDS.

Series D-183: ACT 96

An Act to Amend Section 12504 of the Revised Laws of Hawaii 1945, Relating to Small Guardianships.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12504** of the Revised Laws of Hawaii 1945, is hereby amended (a) by deleting the words "one thousand" in the third and fourteenth lines of said section, and inserting in lieu thereof the words "one thousand five hundred" and (b) by deleting the words "two thousand" in the seventeenth line of said section and inserting in lieu thereof the words "three thousand".

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 292, Act 96.**

Note: As so amended, § 12504 reads:

Sec. 12504. Small estates; clerk of court to act when. Whenever so requested by a parent, relative or next friend of a minor or insane person whose estate is of a value of less than one thousand five hundred dollars, the court may appoint the clerk of the court of that circuit as guardian of such minor or insane person, who shall serve in such capacity, with the full powers of and under like obligations as other guardians appointed under this chapter, except that he shall not be required to give any bond in addition to that required under section 488; nor shall he be entitled to any commission or compensation except for expenses necessarily and actually incurred, nor shall he or the minor or insane person or the estate of such minor or insane person be liable for any court costs arising out of such guardianship, except the actual cost of any advertising found necessary; **provided,** further, that the right of such clerk to act as such guardian shall not be affected by reason of any increase of the estate to an amount in excess of one thousand five hundred dollars as the result of any accumulations of income accruing from the original principal of the estate or by the increase in value of the principal; **provided,** further, that if the estate shall reach in value the sum of three thousand dollars a guardian shall then be appointed under the preceding sections of this chapter. [L. 1927, c. 168, s. 1; R. L. 1935, s. 4854; am. L. 1939, c. 119, s. 1; am. L. 1943, s. 2; R. L. 1945, s. 12504; am. L. 1947, c. 96, s. 1.]

Series D-184: ACT 78

An Act to Amend Section 12507 of the Revised Laws of Hawaii 1945, Relating to Guardian Ad Litem and Next Friend.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12507 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12507. Appointment.** Nothing contained in this chapter shall impair or affect the power of any court or judge to appoint a guardian to defend the interests of any minor impleaded in such court or before such judge, or interested in any suit or matter there pending, or their power to appoint or allow any person as next friend for a minor, to commence, prosecute, or defend any suit in his behalf; **provided,** however, that in all proceedings for annulment, divorce or separation, except in the case of annulment on the ground of nonage, either spouse, although a minor, may sue or be sued in his or her name without a guardian or next friend." [C. C. 1859, s. 1349; am. L. 1903, c. 16, s. 2; R. L. 1935, s. 4857; R. L. 1945, s. 12507; am. L. 1947, c. 78, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **S.B. 7, Act 78.**

Note: §§ **12519.01-.03,** added L. 1945, c. 30 (D-202), conservator of absentee's property; § **12540,** amended L. 1945, c. 211 (D-203), guardian's sale.

Series D-185: ACT 97

An Act to Repeal Section 12545 and to Amend Sections 12549 and 12552 of the Revised Laws of Hawaii 1945, Relating to Oath of Guardian on Sale of Real Estate.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12545** of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 2. **Section 12549** of said Revised Laws is hereby amended by deleting the words "shall take and subscribe the oath required in like case of guardians appointed in the Territory, and".

Section 3. **Section 12552** of said Revised Laws is hereby amended by deleting the following:

"3. That he took the oath prescribed in this chapter."

Section 4. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 293, Act 97.**

Note: As so amended, §§ 12549 and 12552 read:

Sec. 12549. Notice and perpetuation of evidence. Every foreign guardian so licensed to sell real property shall give notice of the time and place of sale, and conduct the same in the manner prescribed for guardians appointed here, and may perpetuate the evidence of the notice in the same manner. [C. C. 1859, s. 1387; R. L. 1945, s. 12549; am. L. 1947, c. 97, s. 2.]

Sec. 12552. Sale, when valid. In case of an action relating to any property sold by a guardian, under the provisions of this chapter, in which the ward, or any person claiming under him, shall contest the validity of the sale, the same shall not be avoided on account of any irregularity in the proceedings, **provided** it shall appear:

1. That the guardian was licensed to make the sale by a judge of competent jurisdiction.

2. That he gave a bond, which was approved by the judge, in case any bond were required by the judge upon granting the license.

3. That he gave notice of the time and place of the sale, as prescribed herein.

4. That the property was sold accordingly by public auction, and is held by one who purchased it in good faith. [C. C. 1859, s. 1392; am. L. 1903, c. 16, s. 6; R. L. 1945, s. 12552; am. L. 1947, c. 97, s. 3.]

[CHAPTER 305A. VETERANS' GUARDIANSHIP, UNIFORM ACT.]

Series D-186: ACT 202

An Act Concerning the Guardianship of Incompetent Veterans, and Other Incompetent and Minor Beneficiaries of the Veterans Administration, and to Make Uniform the Law With Reference Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 12561.01] Section 1. **Definitions.** As used in this Act: person means an individual, a partnership, a corporation or an association.

Veterans Administration means the Veterans Administration, its predecessors or successors.

Income means moneys received from the Veterans Administration and revenue or profit from any property wholly or partially acquired therewith.

Estate means income on hand and assets acquired partially or wholly with income.

Benefits means all moneys paid or payable by the United States through the Veterans Administration.

Administrator means the administrator of Veterans Affairs of the United States or his successor.

Ward means a beneficiary of the Veterans Administration.

Guardian means any fiduciary for the person or estate of a ward. [L. 1947, c. 202, s. 1.]

[Sec. 12561.02.] Section 2. **Administrator as party in interest.** The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the Veterans Administration. Not less than 14 days prior to hearing in such matter notice in writing of the time and place thereof shall be given by mail (unless waived in writing) to the office of the Veterans Administration having jurisdiction over the area in which any such suit or any such proceeding is pending. [L. 1947, c. 202, s. 2.]

[Sec. 12561.03.] Section 3. **Application.** Whenever, pursuant to any law of the United States or regulation of the Veterans Administration, it is necessary, prior to payment of benefits, that a guardian be appointed, the appointment may be made in the manner hereinafter provided. [L. 1947, c. 202, s. 3.]

[Sec. 12561.04.] Section 4. **Limitation on number of wards.** No person other than a bank or trust company shall be guardian of more than five wards at one time, unless all the wards are members of one family. Upon presentation of a petition by an attorney of the Veterans Administration or other interested person, alleging that a guardian is acting in a fiduciary capacity for more than five wards as herein provided and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge him from guardianships in excess of five and forthwith appoint a successor. [L. 1947, c. 202, s. 4]

[Sec. 12561.05.] Section 5. **Appointment of Guardians.**

(1) A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized by law to file such a petition. If there is no person so authorized or if the person so authorized refuses or fails to file such a petition within thirty days after mailing of notice by the Veterans Administration to the last known address of the person, if any, indicating the necessity for the same, a petition for appointment may be filed by any resident of this State.

(2) The petition for appointment shall set forth the name, age, place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the Veterans Administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the proposed guardian and if the nominee is a natural person, the number of wards for whom the nominee is presently acting as guardian. Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in the petition, the court may appoint some other individual or bank or trust company as guardian, if the court determines it is for the best interest of the ward.

(4) In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration. [L. 1947, c. 202, s. 5.]

[**Sec. 12561.06.**] Section 6. **Evidence of necessity for guardian of infant.** Where a petition is filed for the appointment of a guardian for a minor, a certificate of the administrator or his authorized representative, setting forth the age of such minor as shown by the records of the Veterans Administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the Veterans Administration shall be prima facie evidence of the necessity for such appointment. [L. 1947, c. 202, s. 6.]

[**Sec. 12561.07.**] Section 7. **Evidence of necessity for guardian for incompetent.** Where a petition is filed for the appointment of a guardian for a mentally incompetent ward, a certificate of the administrator or his duly authorized representative, that such person has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing such Veterans Administration and that the appointment of a guardian is a condition precedent to the payment of any moneys due such ward by the Veterans Administration, shall be prima facie evidence of the necessity for such appointment. [L. 1947, c. 202, s. 7.]

[**Sec. 12561.08.**] Section 8. **Notice.** Upon the filing of a petition for the appointment of a guardian under this Act, notice shall be given to the ward, to such other persons, and in such manner as is provided by the general law of this jurisdiction, and also to the Veterans Administration as provided by this Act. [L. 1947, c. 202, s. 8.]

[Sec. 12561.09.] Section 9. **Bond.** (1) Upon the appointment of a guardian, he shall execute and file a bond to be approved by the court in an amount not less than the estimated value of the personal estate and anticipated income of the ward during the ensuing year. The bond shall be in the form and be conditioned as required of guardians appointed under the general guardianship laws of this jurisdiction. The court may from time to time require the guardian to file an additional bond. The court shall not require any original or additional bond of a trust company appointed as guardian except as provided in section 8663.

(2) Where a bond is tendered by a guardian with personal sureties, there shall be at least two such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that each is worth the sum named in the bond as the penalty thereof over and above all his debts and liabilities and the aggregate of other bonds on which he is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium thereon to be paid from the ward's estate. [L. 1947, c. 202, s. 9.]

[Sec. 12561.10.] Section 10. **Petitions and accounts, notices and hearings.**

(1) Every guardian, who has received or shall receive on account of his ward any moneys or other thing of value from the Veterans Administration shall file with the court annually, on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true, and accurate account under oath of all moneys or other things of value so received by him, all earnings, interest or profits derived therefrom and all property acquired therewith and of all disbursements therefrom, and showing the balance thereof in his hands at the date of the account and how invested.

(2) The guardian, at the time of filing any account, shall exhibit all securities or investments held by him to an officer of the bank or other depository wherein said securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on his bond, or to the judge or clerk of a court of record in this jurisdiction, or, upon request of the guardian or other interested party, to any other reputable person designated by the court, who shall certify in writing that he has examined the securities or investments and identified them with those described in the account, and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securi-

ties or investments to the judge of the court, who shall endorse on the account and copy thereof a certificate that the securities or investments shown therein as held by the guardian were each in fact exhibited to him and that those exhibited to him were the same as those shown in the account, and noting any omission or discrepancy. That certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall be filed by the guardian with his account.

(3) At the time of filing in the court any account, a certified copy thereof and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the Veterans Administration having jurisdiction over the area in which the court is located. A signed duplicate or a certified copy of any petition, motion or other pleading, pertaining to an account, or to any matter other than an account, and which is filed in the guardianship proceedings or in any proceeding for the purpose of removing the disability of minority or mental incapacity, shall be furnished by the person filing the same to the proper office of the Veterans Administration. Unless hearing be waived in writing by the attorney of the Veterans Administration, and by all other persons, if any, entitled to notice, the court shall fix a time and place for the hearing on the account, petition, motion or other pleading not less than fourteen days nor more than thirty days from the date same is filed, unless a different available date be stipulated in writing. Unless waived in writing, written notice of the time and place of hearing shall be given the Veterans Administration office concerned and the guardian and any others entitled to notice not less than fourteen days prior to the date fixed for the hearing. The notice may be given by mail in which event it shall be deposited in the mails not less than fourteen days prior to said date. The court, or clerk thereof, shall mail to said Veterans Administration office a copy of each order entered in any guardianship proceeding wherein the Administrator is an interested party.

(4) If the guardian is accountable for property derived from sources other than the Veterans Administration, he shall be accountable as is or may be required under the applicable law of this jurisdiction pertaining to the property of minors or persons of unsound mind who are not beneficiaries of the Veterans Administration, and as to such other property shall be entitled to the compensation provided by such law. The account for other property may be combined with the account filed in accordance with this section. [L. 1947, c. 202, s. 10.]

[Sec. 12561.11.] Section 11. **Penalty for failure to account.** If any guardian shall fail to file with the court any account as required by this Act, or by an order of the court, when any account is due or within thirty days after citation issues as provided by law, or shall fail to furnish the Veterans Administration a true copy of any account, petition or pleading as required by this Act, such failure may in the discretion of the court be ground for his removal. [L. 1947, c. 202, s. 11.]

[Sec. 12561.12.] Section 12. **Compensation of guardians.** Compensation payable to guardians shall be based upon services rendered and shall not exceed 5% of the amount of moneys received during the period covered by the account. In the event of extraordinary services by any guardian, the court, upon petition and hearing thereon may authorize reasonable additional compensation therefor. A copy of the petition and notice of hearing thereon shall be given the proper office of the Veterans Administration in the manner provided in the case of hearing on a guardian's account or other pleading. No commission or compensation shall be allowed on the moneys or other assets received from a prior guardian nor upon the amount received from liquidation of loans or other investments. [L. 1947, c. 202, s. 12.]

[Sec. 12561.13.] Section 13. **Investments.** Every guardian shall invest the surplus funds of his ward's estate in such securities or property as authorized under section 12576 but only upon prior order of the court; except that the funds may be invested, without prior court authorization, in direct unconditional interest-bearing obligations of this Territory or any county of this Territory or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or certified copy of the petition for authority to invest shall be furnished the proper office of the Veterans Administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account. [L. 1947, c. 202, s. 13.]

[Sec. 12561.14.] Section 14. **Maintenance and support.** A guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward, the spouse and the minor children of the ward, except upon petition to and prior order of the court after a hearing. A signed duplicate or certified copy of said petition shall be furnished the proper office of the Veterans Administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account or other pleading. [L. 1947, c. 202, s. 14.]

[Sec. 12561.15.] Section 15. **Purchase of Home for Ward.** (1) The court may authorize the purchase of the entire fee simple title to real estate in this Territory in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or (if he is not a minor) as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished the proper office of the Veterans Administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

(2) Before authorizing such investment the court shall require written evidence of value and of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section does not limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interest and upon prior order of the court in which the guardianship is pending, to agree with co-tenants of the ward for a partition in kind, or to purchase from co-tenants the entire undivided interests held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty. [L. 1947, c. 202, s. 15.]

[Sec. 12561.16.] Section 16. **Copies of public records to be furnished.**

When a copy of any public record is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the authorized representative of the Veterans Administration with a certified copy of such record. [L. 1947, c. 202, s. 16.]

[Sec. 12561.17.] Section 17. **Discharge of guardian and release of sureties.** (1) In addition to any other provisions of law relating to judicial restoration and discharge of guardian, a certificate by the Veterans Administration showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the Veterans Administration upon examination in accordance with law shall be prima facie evidence that the ward has attained majority, or has re-

covered his competency. Upon hearing after notice as provided by this Act and the determination by the court that the ward has attained majority or has recovered his competency, an order shall be entered to that effect, and the guardian shall file a final account. Upon hearing after notice to the former ward and to the Veterans Administration as in case of other accounts, upon approval of the final account, and upon delivery to the ward of the assets due him from the guardian, the guardian shall be discharged and his sureties released. [L. 1947, c. 202, s. 17.]

[**Sec. 12561.18.**] Section 18. **Liberal construction.** This Act shall be construed to make uniform the law of those states which enact it. [L. 1947, c. 202, s. 18.]

[**Sec. 12561.19.**] Section 19. **Short title.** This Act may be cited as the "Uniform Veterans' Guardianship Act." [L. 1947, c. 202, s. 19.]

[**Sec. 12561.20.**] Section 20. **Severability.** If any provision of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. [L. 1947, c. 202, s. 20.]

[**Sec. 12561.21.**] Section 21. **Modification of prior laws.** All Acts or parts of Acts relating to beneficiaries of the Veterans Administration inconsistent with this Act are hereby repealed. Except where inconsistent with this Act, the laws of this Territory relating to guardian and ward and the judicial practice relating thereto, including the right to trial by jury and the right of appeal, shall be applicable to such beneficiaries and their estates. [L. 1947, c. 202, s. 21.]

[**Sec. 12561.22.**] Section 22. **Application of Act.** The provisions of this Act relating to surety bonds and the administration of estates of wards shall apply to all "income" and "estate" as defined in section 1 of this Act whether the guardian shall have been appointed under this Act or under any other law of this Territory, special or general, prior or subsequent to the enactment hereof. [L. 1947, c. 202, s. 22.]

Section 23. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 965, Act 202.**

Note: § **12574,** amended L. 1945, c. 186 (D-204); § **12641,** amended L. 1945, c. 255 (D-205); § **12661,** amended L. 1945, c. 241 (D-206); § **12698,** amended L. 1945, c. 255 (D-205); § **12705,** amended L. 1945, c. 241 (D-206).

Title 35: LAND COURT AND CONVEYANCES.
Chapter 308. BUREAU OF CONVEYANCES.

Series D-187: ACT 157

An Act to Amend Section 12728 of the Revised Laws of Hawaii 1945, Relating to the Fees of the Bureau of Conveyances.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12728 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12728. Fees.** The registrar shall be entitled to demand and receive the following fees, viz:

For the registry of any of the following instruments required by law to be recorded, or presented for record, **provided,** however, that no fee shall be required of any county presenting a document for record, wherein the county is the grantee:

Deed	five dollars
Power of attorney	five dollars
Mortgage	twelve dollars
Foreclosure of mortgage, with or without affidavit	twelve dollars
Additional charge mortgage	four dollars
Extension of mortgage	four dollars
Assignment of mortgage	two dollars and fifty cents for each additional assignment contained in one instrument
Release of mortgage	two dollars
Partial Release of mortgage	two dollars
Lease or sublease	seven dollars
Lease assignment or extension	four dollars
Lease cancellation or surrender	two dollars
Agreement or contract of sale	twelve dollars
Extension of agreement or contract of sale	four dollars
Assignment of agreement or contract of sale	four dollars
Cancellation or surrender of agreement of sale	two dollars
Bill of sale	four dollars
Change of name decree	two dollars
Trust deeds, trust mortgages or trust instruments	two dollars per page

All other instruments not classified herein.....two dollars per page or portion thereof.

For taking any acknowledgment preparatory to registry, one dollar for each party signing;

For every copy of any instrument recorded in his office, authenticated by his seal of office, ...one dollar per page or portion thereof;

For searching the records, and giving the certificate required by law, ...fifty cents for each year searched and also one dollar for each page in the certificate;

For the filing of an attachment.one dollar fifty cents;

For the filing of a discharge of an attachment .....fifty cents;

For the filing of notice lis pendens .....one dollar fifty cents;

For the filing of a release, discharge or discontinuance of notice lis pendens.....fifty cents;

For recording by photostat recorder, sketches, blue prints or plans of land attached to and made a part of instruments, ...one dollar fifty cents;

For certified copy thereof.....one dollar;

For filing of certified copy of district court or circuit court judgment, ...one dollar fifty cents;

For filing of assignment, release or partial release of district court or circuit court judgment, ...fifty cents;

For copy of plan of land, authenticated by his seal of office .....fifty cents for the first square foot and an additional ten cents for each additional square foot or fraction thereof in the size of the plan;

For photostating instruments, etc., for any federal, territorial or county agency, the cost of the materials used therein, such fees to be used by the registrar for the purchase of necessary materials used in such photostating process.

All fees collected under this section, excepting those for photostating instruments for governmental agencies, shall be deposited in the territorial treasury to the credit of the general fund." [R. L. 1945, s. 12728; am. L. 1947, c. 157, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1947.) **S.B. 274, Act 157.**

Note: § **12730,** amended L. 1945, c. 241 (D-206); see **L. 1947,** c. 126 (C-151), **release of powers.** § **12733,** amended L. 1945, c. 84 (D-207).

Series D-188: ACT 86

An Act to Amend Chapter 308 of the Revised Laws of Hawaii 1945 to Provide for Notarial Proof or Acknowledgment of Documents Outside the United States, by Persons in the Armed Forces and for Recordation Where There Is No Official Authorized to Take Proof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12739 of the Revised Laws of Hawaii 1945, as amended by Act 53 of the Session Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 12739. Acknowledgment without the United States; by members of the armed forces; recordation where no official authorized to take proof.

1. The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person without the United States may be made by:

(a) Any officer now authorized thereto by the laws of the Territory;

(b) Any officer of the United States diplomatic or consular service, resident in any foreign country or port, when certified by him under his seal of office; and

(c) Any person authorized by the law of any foreign country to take such acknowledgment or proof, when such acknowledgment or proof is accompanied by a certificate

to the effect that the person taking the same is duly authorized thereto and that such acknowledgment or proof is in the manner prescribed by the laws of such foreign country. Such certificate may be made by a diplomatic or consular officer of the United States under the seal of his office, or by a diplomatic or consular officer of such foreign country, resident in the Territory of Hawaii, under the seal of his office.

For the purposes of this section diplomatic or consular officer shall include any minister, consul, vice consul, charge d'affaires, consular or commercial agent, or vice consular or vice commercial agent.

2. Proof or acknowledgment may be made by any person in the armed forces of the United States, or by any person without the United States, before any officer of the armed forces authorized by Congress to exercise the powers of a notary public. The signature without seal of any officer acting as such notary public shall be prima facie evidence of his authority.

3. Where it is established to the satisfaction of any judge of a circuit court of the Territory that any instrument required to be acknowledged or proved has been executed by a person then permanently or temporarily resident at some place where acknowledgment or proof cannot be made as hereinabove provided, such instrument shall be declared acceptable for recordation by order of such judge issued upon such testimony and evidence as shall be sufficient in the judgment of such judge to establish the genuineness and authenticity thereof, and a certified copy of such order shall be recorded together with and attached to any instrument so ordered acceptable for recordation.

4. Any instrument so proved, acknowledged or ordered acceptable for recordation shall be entitled to be recorded in the Territory, and may be read in evidence in any court of the Territory, in the same manner and with like effect as if therein duly recorded or acknowledged." [L. 1909, c. 69, s. 5; R. L. 1945, s. 12739; am. L. 1945, c. 53, s. 1; am. L. 1947, c. 86, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **H.B. 823, Act 86.**

Note: § **12743.01,** added L. 1945, c. 84 (D-207), signatures of government officers; § **12761.01,** added L. 1945, c. 54 (D-209), translations; §§ **12921-23,** repealed **L. 1947,** c. 115 (F-217).

PART E

Title 37: MILITARY AND DEFENSE.
Chapter 320. NATIONAL GUARD.

Series E-189: ACT 123

An Act to Amend Chapter 320 of the Revised Laws of Hawaii 1945 Relating to the National Guard and the Unorganized Militia of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 320 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending section 13030 to read as follows:

"**Sec. 13030. Who subject to duty.** The militia shall consist of every able-bodied male citizen of the Territory, and every able-bodied male of foreign birth who has declared his intention and is eligible to become a citizen of the United States, who is more than eighteen and less than forty-five years of age, and shall be divided into two classes, the organized militia to be known as Hawaii National Guard, and the remainder to be known as the unorganized militia." [L. 1903, c. 59, s. 1; am. L. 1925, c. 52, s. 1; R. L. 1945, s. 13030; am. L. 1947, c. 123, pt. of s. 1.]

2. By adding thereto three new sections to be numbered, and to read, as follows:

"**Sec. 13030.01. Military department.** The military department of the Territory shall be composed of the military forces as provided in this chapter. [L. 1947, c. 123, pt. of s. 1.]

Sec. 13030.02. The national guard. The national guard shall consist of the regularly commissioned, enlisted, organized and uniformed military forces in the Territory, who have heretofore participated in or who shall hereafter participate in apportionment of the annual appropriation provided by the Congress of the United States for the support of the national guard. [L. 1947, c. 123, pt. of s. 1.]

Sec. 13030.03. The unorganized militia. The unorganized militia shall be composed of all male persons subject to military duty but who are not members of the national guard. The unorganized militia shall be subject to active military duty only when called into service of the Territory or of the United States. That portion of the unorganized militia called into service shall be mustered in for such period as may be required. The governor may assign them to existing organizations of the national guard or organize them as the exigencies of the occasion may require." [L. 1947, c. 123, pt. of s. 1.]

3. By amending section 13032 thereof to read as follows:

"**Sec. 13032. Government employees.** In case of war, insurrection or rebellion, or of resistance to the execution of the laws of the Territory, all employees of the government who are not members of the national guard and who are not physically disabled, shall report for duty in the unorganized militia and be subject to military service." [L. 1895, c. 20, s. 21; R. L. 1945, s. 13032; am. L. 1947, c. 123, pt. of s. 1.]

4. By amending sections 13034 to 13037, inclusive, thereof to read respectively, as follows:

"**Sec. 13034. Same as United States Armies.** The organization, equipment and discipline of the national guard shall be the same as that prescribed from time to time by the Secretary of War for the national guard of the United States, which organization is a component of the Army of the United States. [L. 1903, c. 59, s. 3; R. L. 1945, s. 13034; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13035. Regiment, number, location. Subject to the provisions of section 13034, the national guard shall consist of not less than one regiment which may be organized by order of the commander in chief and must be located throughout the islands with reference to the military wants thereof, means of concentration, and other military requirements. [L. 1895, c. 20, s. 1; R. L. 1945, s. 13035; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13036. Units of organization. The governor may organize the militia of the Territory into divisions, brigades, regimental combat teams, regiments, battalions, squadrons, troops, batteries, companies and similar organizations in accordance with its strength as authorized from time to time and in conformity with the organization which is prescribed for the national guard of the United States. [L. 1895, c. 20, s. 2; am. L. 1909, c. 46, pt. of s. 1; R. L. 1945, s. 13036; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13037. Consolidating, reorganizing, disbanding, etc. The governor under the laws and regulations in force or prescribed may alter, divide, annex, consolidate and reorganize the national guard or any part thereof and create new organizations, redesignate units or change the location of units, whenever the efficiency of the territorial forces would thereby be increased and he may at any time change the organization of divisions, brigades, regimental combat teams, regiments, battalions, squadrons, troops, batteries, companies, and similar organizations, so as to conform to like organizations, or instructions now in force or hereafter adopted for the national guard of the United States and for that purpose, the number of officers, of any grade in regi-

ments, battalions, squadrons, troops, batteries, companies and similar organizations may be increased or decreased to the extent thereby made necessary; **provided,** that no organization shall be disbanded or inactivated without the consent of the President of the United States, nor without such consent, shall the commisioned or enlisted strength of such organization be reduced below the minimum that shall be prescribed therefor by the President." [L. 1895, c. 20, s. 13; am. L. 1909, c. 46, pt. of s. 1; am. L. 1917, c. 86, s. 1, and c. 209, s. 1; am. L. 1927, c. 59, s. 1; R. L. 1945, s. 13037; am. L. 1947, c. 123, pt. of s. 1.]

5. By amending section 13040 thereof to read as follows:

"**Sec. 13040. Staff for military department: headquarters staff Hawaii National Guard.** The adjutant general shall have a military administrative executive, who will act as assistant adjutant general and such other necessary officers, clerks, employees and laborers as may be required from time to time to conduct properly the operation of the military department, and custodial services required of armories, reservations and rifle ranges. Their salaries shall be payable out of territorial appropriations in accordance with territorial civil service ratings for these positions. There shall also be a headquarters staff of the Hawaii National Guard which shall be divided into a national guard section and selective service section, which headquarters shall consist of the following: adjutant general department, quartermaster corps, inspector general's department, judge advocate general's department, ordnance department, engineer corps, signal corps, air corps, finance department, and such other corps and departments as may be prescribed by the laws of the United States; the commissioned, warrant and noncommissioned officers detailed or appointed thereto shall be of such number as is prescribed by the laws of the United States and regulations of the War Department. One officer may be detailed to perform the duties of two or more officers. The adjutant general by virtue of his office shall be the chief of staff." [L. 1903, c. 59, s. 5; am. L. 1909, c. 46, pt. of s. 1; am. L. 1917, c. 86, s. 2; am. L. 1927, c. 60, s. 1; R. L. 1945, s. 13040; am. L. 1947, c. 123, pt. of s. 1.]

6. By adding thereto a new section to be numbered, and read, as follows:

"**Sec. 13041.01. Adjutant general; rank, compensation.** The adjutant general shall have a rank not lower than that of brigadier general. There shall be paid monthly by the Territory to the adjutant general the pay and allowances of his

grade as fixed by the tables of the regular army of the United States." [L. 1947, c. 123, pt. of s. 1.]

7. By amending sections 13042 to 13046, inclusive, thereof to read, respectively, as follows:

"**Sec. 13042. Administration.** The adjutant general shall from time to time make and publish such orders and regulations, not inconsistent with law, as, in his opinion, are necessary to bring the organization, armament, equipment and discipline of the organized militia to a state of efficiency as nearly as possible approaching that of the United States Army. He shall attest all commissions issued to military officers, appointments issued to warrant officers, maintain personnel records, superintend preparation of all letters and reports required by the United States from the Territory. He shall have charge of the territorial military reservations, armories and all other property of the Territory kept or used for military purposes. It shall be the duty of the adjutant general to cause an inventory to be taken at least once each year of all military stores, property and funds under his jurisdiction. The adjutant general shall be the official custodian of the military records of all persons from the Territory who served in the armed forces of the United States during times of war or grave national emergency, including those records which are turned over to the Territory by the federal agency of selective service. Such records will be preserved perpetually.

He shall make an annual report of the operations of his department and shall give a bond to the Territory in the sum of ten thousand dollars. [L. 1909, c. 46, pt. of s. 1; am. L. 1927, c. 58, s. 1; R. L. 1945, s. 13042; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13043. Officers, qualifications, appointment, tenure. Commissioned officers must be citizens of the United States and must not be less than twenty-one years of age. Officers shall be appointed upon the order of the governor, subject to federal recognition as officers in the National Guard of the United States except as to those officers appointed as aides de camp to the governor and staff positions not requiring federal recognition. Officers, selected for commission subject to federal recognition must meet the qualifications prescribed in War Department policies relating to the National Defense Act. The commissions of all officers shall continue in force until they are regularly relieved from duty, responsibility and accountability in accordance with law or failure on the part of officers in meeting federal recognition requirements. [L. 1895, c. 20, s. 3; am. L. 1896,

c. 49, s. 1; am. L. 1909, c. 46, pt. of s. 1.; am. L. 1917, c. 86, s. 3 and c. 209, s. 2; am. L. 1925, c. 69, s. 1; R. L. 1945, s. 13043; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13044. Commissioned by commander in chief. All commissioned officers of the national guard shall be commissioned by the commander in chief but he may refuse to issue a commission to any officer elected or appointed, if in his opinion, the person elected or appointed is in any way unqualified or unworthy to be an officer in the national guard. All commissions in the military service of this Territory shall be in the name and by the authority of the Territory, sealed with the territorial seal, signed by the governor, attested by the adjutant and recorded in rosters periodically prepared and printed by the military department. [L. 1895, c. 20, s. 7; R. L. 1945, s. 13044; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13045. Elimination and disposition of officers. At any time, the moral character, capacity and general fitness for the service of any national guard officer may be determined by an efficiency board of three commissioned officers appointed by the governor, one of whom shall be a medical officer. The officers of the board will be senior in rank (except the medical officer) to the officer whose fitness for service shall be under investigation. If the findings of such board be unfavorable to such officer and be approved by the governor, such officer shall be discharged. Commissions of officers of the national guard may be vacated upon resignation, for absence without leave for three months, upon recommendation of an efficiency board, pursuant to sentence of a court martial, or for failure to meet federal recognition requirement. Officers rendered surplus by the disbandment of their organizations shall be placed in an inactive status, National Guard of the United States, pending position vacancy in a unit of the Hawaii National Guard or they may, upon their own application revert to Officers Reserve Corps status. The governor may order inactive national guard officers to active duty, in which case they shall rank in their grade from the date of the order, and the governor may relieve them from duty and transfer them to the inactive national guard. [L. 1895, c. 20, s. 8; am. L. 1909, c. 46, pt. of s. 1; am. L. 1917, c. 86, s. 4; am. L. 1925, c. 53, s. 1; R. L. 1945, s. 13045; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13046. Examination of officers. Every officer of the national guard shall, upon his appointment to an office and assignment to a unit, upon official orders appear before an examining board and successfully pass such tests as to his

physical, moral and professional fitness as the President of the United States may prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three regular army officers appointed by the army commander responsible for supervision of training of the Hawaii National Guard." [L. 1895, c. 20, s. 10; am. L. 1917, c. 86, s. 5; R. L. 1945, s. 13046; am. L. 1947, c. 123, pt. of s. 1.]

8. By amending section 13048 thereof to read as follows:

"**Sec. 13048. Retired list.** Every commissioned officer who has reached the age of sixty years, or who has become disabled or incapacitated for active duty, shall, upon examination and recommendation of a board of medical officers, be placed upon the retired list; **provided,** however, if it be found by such board that the disability was incurred by reason of any fault or dereliction on the part of the officer, the officer shall be dismissed from the service. Retired officers shall hold the rank held by them at the time of retirement, and shall only be placed on active duty by order of the commander in chief. When on active duty, such officers shall rank next to officers of like rank upon the active list. Any officer who shall have served as an officer in the same grade in the military service of the Territory for a continuous period of not less than ten (10) years, upon his own request, may be placed upon the retired list and withdrawn from active service and command, by the governor and placed on the retired list." [L. 1895, c. 20, s. 42; am. L. 1931, c. 23, s. 1; R. L. 1945, s. 13048; am. L. 1947, c. 123, pt. of s. 1.]

9. By amending sections 13050 and 13051 thereof to read, respectively, as follows:

"**Sec. 13050. Armory board; appointment, duties, etc.** It shall be the duty of the adjutant general to appoint an armory board to consist of three members who shall be commissioned officers of the national guard. Such board may, subject to such rules and regulations as may be issued by the governor, make rules and regulations governing the care and custody of armories, rifle ranges, reservations, installations on license from War and Navy Departments and may permit the use of, or may temporarily rent, such portions of armories, rifle ranges, reservations, installations on license from the War and Navy Departments as will not interfere with the military use thereof. All moneys received from rentals shall be paid into the territorial treasury and such moneys may be expended by the board on warrants issued by the auditor on vouchers approved by the board, for

the purpose of equipping, purchasing furniture, repairs to, or betterment of the armory, and other facilities from which received. The board shall cause to be kept suitable books of account, and shall annually submit to the governor to be by him submitted to the legislature, a statement showing receipts from all sources and expenditures for all purposes. [L. 1913, c. 113, s. 1; am. L. 1931, c. 131, s. 1; R. L. 1945, s. 13050; am. L. 1947, c. 123, pt. of s. 1.]

Sec. 13051. Enlistment. Enlistment in the national guard shall be in manner and form for the period of time as may be provided by the laws of the United States, and regulations issued from time to time, relating to the National Guard of the United States. No soldier shall be reenlisted in the national guard of this Territory whose services during his preceding term of enlistment has not been honest and faithful." [L. 1903, c. 59, s. 7; am. L. 1917, c. 86, s. 6; R. L. 1945, s. 13051; am. L. 1947, c. 123, pt. of s. 1.]

10. By amending section 13059 thereof to read as follows:

"**Sec. 13059. Practice marches, drills, etc.** Every member of the national guard not excused by the commander in chief shall participate in practice marches or go into camp of instruction at least ten consecutive days, and assemble for drill and instruction at any company, battalion, or regimental armories or rendezvous, or for target practice, to the extent prescribed by War Department Regulations." [L. 1903, c. 59, s. 9; am. L. 1927, c. 61, s. 1; R. L. 1945, s. 13059; am. L. 1947, c. 123, pt. of s. 1.]

11. By amending section 13071 thereof to read as follows:

"**Sec. 13071. Pay of enlisted men while on active duty.** Enlisted men while on active duty in the service of the Territory, except during periods of encampments, maneuvers and other exercises, including outdoor target practice, shall receive pay at the rate per day as follows:

Privates	$2.50
Privates first-class	2.67
Corporals	3.00
Sergeants	3.33
Staff sergeants	3.83
Technical sergeants	4.50
First sergeants	5.50
Master sergeants	5.50
Warrant officers (J. G.)	6.00
Chief Warrant Officers	7.00"

[R. L. 1945, s. 13071; am. L. 1947, c. 123, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 963, Act 123.**

Chapter 323. VETERANS, BURIAL OF; CEMETERIES.

Series E-190; ACT 214

An Act Relating to Veterans, Providing For the Establishment of Veterans' Cemeteries, Providing a Bonus For Disabled Veterans, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 13104.01.**] Section 1. [**Establishment of cemeteries on Hawaii, Kauai, Maui, Molokai.**] The commissioner of public lands is hereby authorized and directed to set aside, or to acquire by exchange, purchase or condemnation, in the manner provided by law, land suitable for the establishing of veterans' cemeteries as follows: five acres on the island of Hawaii, four acres on the island of Maui, three acres on the island of Kauai, and one acre on the island of Molokai. [L. 1947, c. 214, s. 1.]

[**Sec. 13104.02.**] Section 2. [**Supervisors' responsibility.**] The boards of supervisors of the county of Hawaii, county of Kauai, and county of Maui shall each provide for the establishment of the veterans' cemetery or cemeteries to be located within their respective counties, and shall make provision for their maintenance and upkeep. They shall each provide for the interment of the remains of residents of their respective counties who died while in the armed forces of the United States and of honorably discharged veterans of the armed forces of the United States who served during a war in which the United States was engaged and who were residents of their respective counties at time of death, and of the widows or widowers of such deceased service men or veterans, **provided** that the wife or husband of a service man or veteran who would be entitled to interment in a veterans' cemetery shall also be eligible to interment in such veterans' cemetery if such wife or husband should predecease such service man or veteran and if such service man or veteran subscribes a statement that he will be interred in the same veterans' cemetery. As used in this section, "establishment" includes grading, filling, leveling, platting, paving of roadways and walks, installation of curbs, building of fences, planting of grass, trees and shrubs, erection of memorial buildings and monuments, and building of other necessary or convenient structures. [L. 1947, c. 214, s. 2.]

[**Sec. 13104.03.**] Section 3. [**Annual territorial appropriation.**] Commencing with the calendar year 1947, there is hereby annually appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of $10,000.00, or so much

thereof as may be necessary, to be expended for the establishment and maintenance of veterans' cemeteries, in the amounts designated:

1. $2,500.00 for the veterans' cemetery on the island of Hawaii.
2. $2,500.00 for the veterans' cemetery on the island of Kauai.
3. $2,500.00 for the veterans' cemetery on the island of Maui.
4. $2,500.00 for the veterans' cemetery on the island of Molokai.

The moneys appropriated by this Act shall be paid into the treasuries of the respective counties when and as required for expenditure, such moneys to be held in the territorial treasury until payment thereof into the treasury of a particular county is requested by resolution of the board of supervisors of that county. All such funds when paid into a county treasury shall be held for the purpose stated in this Act. [L. 1947, c. 214, s. 3.]

[**Veterans' Bonus:**]

Section 4. Upon application to the territorial council on veterans' affairs, each person who shall have served in the armed forces at any time during the period beginning September 16, 1940, and ending on September 2, 1945, and who was a resident of the Territory of Hawaii for a period of not less than six months immediately prior to the time of his entry into service of the said armed forces, and who at the time of his application shall be receiving a disability pension of ten per centum or more under the laws of the United States and who was honorably separated or honorably discharged from such service, shall be paid from the amount appropriated by this section a bonus of three hundred dollars, **provided** that no person shall be eligible for any payment under this section if, after September 16, 1940, said person received a veteran's bonus or payment from any state or territory in the United States because of service in said armed forces.

The sum of $390,000.00, or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory of Hawaii to be used for the purposes of this section by the territorial council on veterans' affairs.

Section 5. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **H.B. 574, Act 214.**

Note: § **13106,** amended L. 1945, c. 198 (E-210), burial of veterans. §§ **13108.01-.09,** added L. 1945, c. 150 (E-211), Veterans' Council.

Chapter 324. HAWAII DEFENSE ACT.

Series E-191: ACT 20

An Act to Amend Chapter 324 of the Revised Laws of Hawaii 1945, the Hawaii Defense Act, as Amended, by Amending Section 13139 Thereof Relating to the Expiration Date.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 324 of the Revised Laws of Hawaii 1945, the Hawaii Defense Act, as amended, is hereby further amended by amending section 13139 of said chapter 324 by deleting the portion of said section preceding the semicolon in line 5 of said section, and inserting in lieu thereof the following:

"**Sec. 13139. Expiration date.** This chapter shall cease to be in effect on July 1, 1947;".

Section 2. This Act shall take effect on its approval.

(Approved April 28, 1947.) **S.B. 22, Act 20.**

Note: As so amended, § 13139 reads:

Sec. 13139. Expiration date. This chapter shall cease to be in effect on July 1, 1947; **provided,** that any violation of this chapter committed while the chapter is in force, may be prosecuted and punished thereafter whether or not this chapter is in force at the time of such prosecution and punishment; **provided** further, that notwithstanding the foregoing, this chapter shall remain and continue in force for the enforcement of rights and liabilities which shall have accrued or attached on or before the date of expiration, hereinabove set forth, and for the expenditure of moneys to meet obligations incurred under the authority of this chapter prior to said date of expiration.

The special fund created by section 13132, subsection (h), paragraph (2), shall be a continuing fund and all of the provisions of said paragraph (2) shall remain in effect, notwithstanding the expiration of this chapter as hereinbefore provided. [L. Sp. 1941, c. 24, s. 29; am. L. 1943, c. 5, s. 3 (20); c. 96, s. 1 (d); R. L. 1945, s. 13139; am. L. 1947, c. 20, s. 1.]

Note: Defense rules continued: Nos. **88, 107, 113, 114** by Act 208 (A-4); **14, 146,** Act 246 (A-38); **137,** Act 232 (F-238); **74,** J. R. 16; **78,** J. R. 19; **141,** J. R. 20; **153,** J. R. 23. For amendments made in 1945 Session, see L. 1945.

APPENDIX: Note 3: FRANCHISES.
21. Honolulu Rapid Transit.

Series E-192: ACT 133

An Act to Amend Act 186 of the Sessiow Laws of Hawaii 1921, as Amended, Relating to the Franchise of the Honolulu Rapid Transit Company, Limited, So as to Extend the Franchise to Include a Portion of the Ewa District, City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Act 186** of the Session Laws of Hawaii **1921,** as amended, is hereby further amended by amending **section 1** thereof in the following respects:

(a) By deleting from the sentence defining the word "Railway" the words "in the district of Honolulu" (L.1921, page 250, lines 1-2) and substituting therefor the phrase "within the territorial limits of the franchise".

(b) By adding thereto the following paragraph:

"The term 'territorial limits of the franchise' shall mean and include all of the district of Honolulu, and in addition thereto all of that portion of the district of Ewa bounded thus: Beginning at the seashore at the Honolulu-Ewa boundary and running in a northwesterly direction along said seashore and harbor front in all its turnings and windings to a point 500 feet north of the north bank of Halawa Stream, thence running in a southeasterly direction (290°00′ by true azimuth measured clockwise from South) to the Honolulu-Ewa district boundary, thence in a southwesterly direction along the Honolulu-Ewa boundary to the point of beginning."

Section 2. **Act 186** of the Session Laws of Hawaii, [**1921**] as amended, is hereby further amended by amending **section 2** thereof, as amended, in the following respects:

(a) By inserting in the first paragraph thereof after the words "district of Honolulu" as the same appear for the second time in said paragraph (L. 1921, page 250, last line) the following words "and that portion of the district of Ewa lying as defined in Section 1 (b) of this Act".

(b) By deleting from the paragraph added thereto by **Act 116** of the Session Laws of Hawaii **1935** the phrase "of the district of Honolulu" (L. 1935, page 328, line 5) and substituting therefor the words "the territorial limits of the franchise".

Section 3. **Act 186** of the Session Laws of Hawaii **1921,** as amended, is hereby further amended in the following respects:

(a) By deleting from section 4 thereof the phrase "in the district of Honolulu" (L. 1921, page 252, line 24) and substituting therefor the following phrase "within the territorial limits of the franchise".

(b) By deleting from the first paragraph of section 13 thereof the words "district of Honolulu" (L. 1921, page 262, line 7) and substituting therefor the words "territorial limits of the franchise".

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 106, Act 133.**

Note: L. 1921, c. 186 can also be found in **Vol. II, R. L. 1925,** pages 2082 and amendments thereto listed in **R. L. 1935,** pages 1259-60 and in **R. L. 1945,** page 1677. This franchise, rewritten to include all amendments to date, is as follows:

CHARTER OF HONOLULU RAPID TRANSIT AND LAND COMPANY (now HONOLULU RAPID TRANSIT COMPANY, LIMITED).

An Act to Amend an Act Entitled "An Act to Authorize and Provide for the Construction, Maintenance and Operation of a Street Railway or Railways in the District of Honolulu, Island of Oahu", Enacted by the Legislature of the Republic of Hawaii, July Seventh, One Thousand Eight Hundred Ninety-Eight, and Granting a Franchise to the Honolulu Rapid Transit and Land Company to Operate a Street Railway in the District of Honolulu, Providing for the Operations of the Same and Providing for the Purchase of the Same by the City and County of Honolulu.

WHEREAS, the legislature of the Republic of Hawaii did, by an Act enacted on the seventh day of July, one thousand eight hundred ninety-eight, authorize Clinton G. Ballentyne and others, their associates and assigns, or such corporation as might be organized by them, to construct, maintain and operate a street railway or railways in the District of Honolulu, Island of Oahu; and

WHEREAS, pursuant to said Act the said Clinton G. Ballentyne and others did organize a corporation as provided in said Act, under the name of the Honolulu Rapid Transit and Land Company, which, since said date, has been exercising said franchise; and

WHEREAS, an Act of Congress to provide a government for the Territory of Hawaii, approved April thirtieth, one thousand nine hundred, provided by the 73rd section thereof that said franchise, with others, should be ratified and confirmed, subject to the approval of the President of the United States; and

WHEREAS, such approval was given by William McKinley, President of the United States, on July twenty-fifth, one thousand nine hundred, to said franchise as then held by said Honolulu Rapid Transit and Land Company; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

That the Act of the Republic of Hawaii enacted July seventh, one thousand eight hundred ninety-eight, entitled "An Act to Authorize and Provide for the Construction, Maintenance and Operation of a Street Railway or Railways in the District of Honolulu, Island of Oahu," approved by the President of the United States under the authority of an Act to provide a government for the Territory of Hawaii, approved April thirtieth, one thousand nine hundred, ratifying and confirming said franchise, subject to said approval, is hereby amended to read as follows:

Sec. 1. Definitions. Wherever in this Act the followng words occur they shall be held to have the force and meaning herein set forth unless the context clearly indicates otherwise:

"Railway" shall refer to and mean the rolling stock, busses or other vehicles of transportation whether operated on rails or not, rails, tracks, roadway, with its appurtenances, appliances and connections to be placed in the streets, roads or places within the territorial limits of the franchise on the Island of Oahu, and all land, power stations, houses, buildings, structures and machinery, franchises, and all property of every nature whatsoever owned or acquired, used and useful for public utility purposes as by this Act provided.

"Honolulu" or "District of Honolulu" shall refer to and mean all of that portion of the Island of Oahu included in the judicial, educational and taxation district, now defined by law as the "District of Honolulu" or "Honolulu District".

"Company" shall refer to and mean the Honolulu Rapid Transit and Land Company, and its successors and assigns, the holders of the franchise herein granted.

"Commission" shall refer to and mean the public utilities commission of the Territory of Hawaii, or its successors and any commission of similar character that may be hereafter created by the laws of the Territory of Hawaii.

"Board of supervisors" shall refer to and mean the board of supervisors of the city and county of Honolulu, or its successors, or the corresponding legislative body of the successors of said city and county of Honolulu.

The term **"territorial limits of the franchise"** shall mean and include all of the District of Honolulu, and in addition thereto all of that portion of the District of Ewa bounded thus: Beginning at the seashore at the Honolulu-Ewa boundary and running in a northwesterly direction along said seashore and harbor front in all its turnings and windings to a point 500 feet north of the north bank of Halawa Stream, thence running in a southeasterly direction (290° 00' by true azimuth measured clockwise from South) to the Honolulu-Ewa District boundary, thence in a southwesterly direction along the Honolulu-Ewa boundary to the point of beginning. [Am. L. 1947, c. 133.]

Sec. 2. Grant—operation of street railway and connecting busses or other vehicles authorized. The right is hereby granted to the Honolulu Rapid Transit and Land Company, an Hawaiian corporation, and to its successors and assigns, for the purpose of transporting passengers, to construct, lay down, maintain and operate a railway, either single or double track, or partly single and partly double, with such curves, switches, turnouts, poles, wires, under-

ground or overhead conduits, and such other appliances and appurtenances as may from time to time be necessary for the use and operation thereof, along and upon such streets, roads, and places in the District of Honolulu, Territory of Hawaii, as are now occupied by the railway of said company, and along and upon such other streets, roads and places in the District of Honolulu, and that portion of the district of Ewa lying as defined in Section 1 of this Act,[1] as may, on the application of the company, be approved by the commission after investigation and a public hearing had thereon, or as may be ordered by the commission as hereinafter provided; and in connection with said railway to manufacture, construct, operate, repair and maintain such power stations, houses, buildings, structures and machinery, cars, and all and every other appurtenance or appliance required in the construction, equipment, operation and maintenance of said railway, and to purchase, create, maintain and use such electric and other power as is hereinafter provided for as may be required for the use of such railway, its appurtenances and appliances for the purpose of operating said railway, and in connection with said railway along contemplated extensions thereof or from any point thereof to operate such busses or other vehicles not operated on rails for the transportation of passengers as may be approved or ordered by the commission; **provided,** however, that the board of supervisors under any law now in existence or hereafter passed may set aside streets or boulevards upon which no railway shall be subsequently constructed thereon saving and excepting for crossing purposes only. [Am. L. 1947, c. 133.]

Freight may be hauled or carried upon said railway upon such streets at such times and in such manner as may be from time to time designated by the board of supervisors.

The company shall have the right to charge, receive and collect for the transportation of passengers and freights, such reasonable rates as may from time to time be fixed and determined by the company with the approval of the commission, or by the commission, so that the same will be sufficient to meet all reasonable costs of operation, including taxes, plus a fair return on the total property of said company actually used for public utility purposes.

The company shall have the right to abandon the operation of any part or parts of its system, as now or hereafter constituted or operated, when, after hearing before the commission, it shall appear that the operation of such part or parts proposed to be abandoned will not, together with the rest of said system, earn sufficient to meet all reasonable costs of operation, including taxes, plus a fair return on the total property of said company actually used for public utility purposes. [Added L. 1933, c. 114.]

The company may also abandon all or any street railway operation, and substitute transportation of any type or motive power, either on the same street or streets as those abandoned, or on any other street or streets, as may be approved by the commission. [Added L. 1933, c. 114.]

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[1] (Act 133, Session Laws 1947, had "Section 1 (b) of this Act". Since there is no subsection to Section 1, the "b" has been dropped.)

Upon application by the company and obtaining the approval from time to time of the public utilities commission, the company may, and it is hereby granted the right to, extend its service to and between points on the island of Oahu outside the territorial limits of the franchise during all visits of the United States Fleet, when the same carries a personnel of ten thousand or over. [Added L. 1935, c. 116; am. L. 1947, c. 133.]

Sec. 3. Power of eminent domain. The company shall have the right, and is hereby vested with the power and authority to acquire by the exercise of the right of eminent domain such real property, rights of way and interest in, over, across, under, and through any real property which may be necessary for the purposes of the company.

The power of eminent domain, granted by this section, shall be exercised in the same manner and with like procedure as the power of eminent domain may be exercised by a railroad company under the provisions of section 725 of the Revised Laws of Hawaii, 1915, and otherwise in accordance with all applicable provisions of the general laws of the Territory, and only after the company has first obtained the written consent of the commission to the institution of condemnation proceedings, such consent to be given only after investigation by said commission, and notice to the parties in interest and to the public, with an opportunity for said parties and the public to be heard.

Sec. 4. Motive power. The railway shall be operated by electric power, either through overhead or underground wires or storage batteries, or by internal combustion engines or such other motive power as the company may from time to time adopt, subject to the prior approval of the commission; provided, however, that a part of such railway may be operated by one motive power, while another or other portions thereof may be operated by another or other motive powers, with the prior consent and approval as aforesaid; and provided, further, that no steam engine, similar to the steam locomotive commonly in use and no engine, car or other vehicle which emits steam, smoke or offensive odors shall be operated upon the railway on the streets within the territorial limits of the franchise. [Am. L. 1947, c. 133.]

Sec. 5. Construction; equipment. (a) The railway, together with all its branches and connections, shall be thoroughly and substantially constructed and maintained according to the best modern practice, and in such manner as to cause the least obstruction to the free use of the streets, roads and places in which it may be laid.

(b) The cars for carrying passengers shall be of the best modern construction for the comfort, convenience and safety of such passengers, and shall be provided with fenders of the best pattern and with proper brakes, lighting and signalling appliances, and with proper numbers, route-boards or signs, all as approved or required by the commission.

(c) The tracks shall not exceed in width four feet, eight and one-half inches between the rails.

(d) The company shall pay all expenses and damages and save the Territory and the city and county of Honolulu harmless and indemnified from all loss, cost, damage and expense in consequence of or arising from the con-

struction and operation of said railway, and pay for all repairs to the streets in which the same may be located, made necessary or advisable by the construction or operation of said railway.

The company shall so provide for its electric currents and provide such conductors thereof, and of return currents that avoidable injury or deterioration shall not occur, nor be done to the water pipes, sewer pipes, gas pipes, or other property of the Territory, of the city and county of Honolulu, or of any person or corporation, and shall save the Territory or the city and county of Honolulu, or any person or corporation, harmless and indemnified from all loss, cost, damage and expense by reason thereof.

(e) The type and style of rail to be employed by the company in constructing and laying down the several railroad tracks, and the manner of laying such rails shall be such as may be approved of or required by the board of supervisors.

(f) In laying down the said tracks not more than one block or in case said block is longer than 1,000 feet not more than 1,000 linear feet of any one street shall be closed to traffic at any one time and the work shall be carried on continuously until completed; **provided,** however, that a longer distance may be closed with the approval of the board of supervisors.

(g) Trolley wires shall be of a height of not less than 16 feet above the street and shall be provided with proper guard wires. The size and location of such wires, the manner of guarding the same, and the manner of supporting them shall be as approved or required by the board of supervisors; **provided,** however, that this paragraph shall not operate to deprive the commission of any authority granted under section 13 hereof.

(h) Every order, requirement, direction or approval of the board of supervisors shall be just and reasonable.

Sec. 6. Paving obligations. (a) The rights and privileges hereby granted to the company are granted upon such terms, conditions and restrictions as are now or may hereafter be imposed by the laws of the Territory in relation to the matter of constructing and maintaining street railways, and the strict compliance with such laws is hereby required of the company.

(b) The city and county of Honolulu shall have the right to grade, sewer, pave, macadamize or otherwise improve, alter or repair any or all the streets or roads upon which the railway is laid or constructed, and such right may not be alienated or impaired; but any work in carrying out and performing such right shall be done in such manner as to obstruct or injure the railway hereby authorized as little as possible. If such work, grade, improvement, alteration or repair upon such streets or roads necessarily interferes with the grade or location of the railway, the company, upon being so ordered by the board of supervisors, shall alter the railway and make it correspond with the work, grade, improvement, alteration or repair. Such alteration shall be completed within a reasonable time from the date of such order to be fixed by the board of supervisors.

(c) The company, before laying the railway upon any of the streets or roads in the city and county of Honolulu, shall ascertain the lawful grade of such streets or roads from the board of supervisors and the board shall furnish the required information within a reasonable time. The tracks of the company shall conform to the grades of the streets or roads on which they are laid down as furnished by the board of supervisors, and the company shall not in any way change or alter the same without the written consent of the board.

The city and county of Honolulu shall have the right to change the lines and grades of its streets or roads at any time whenever required by public convenience, public welfare or public safety; and the company shall upon being ordered so to do by the board of supervisors, conform to such new lines or grades by reconstructing its tracks or lines. Such order shall be complied with within a reasonable time from the date thereof to be fixed by the board of supervisors.

(d) The city and county of Honolulu shall reimburse the company for all pavements made or expenses incurred by it by reason of any such alteration or reconstruction as provided in paragraphs (b) and (c) of this section.

(e) The company, in laying its tracks on a street or road already paved or macadamized, shall pave or macadamize the entire space between its tracks, or between the outside rails of double tracks if more than one track be laid, and for one foot outside of the outer rails, and such paving or macadamizing shall be flush with the streets or roads and correspond with the paving or macadamizing of the remaining portions of the street or road, and shall be so laid that the rails shall be flush with the streets or roads, and the company shall keep its tracks in good repair; provided, however, that the board of supervisors may approve a type or types of paving which will make such tracks accessible for repair.

(f) The location of the tracks in the streets or roads shall be as approved by the board of supervisors. If public convenience, public welfare, or public safety requires a change of the location of the tracks, a relocation may be ordered by the board of supervisors. Such relocation shall be made within a reasonable time from the date of the order to be fixed by the board of supervisors, and at the expense of the city and county of Honolulu.

(g) Should the company fail or neglect to comply with any of the obligations of this section provided after written notice by the board of supervisors of such failure or neglect, or with any order of the board of supervisors made as in this section provided, the board of supervisors may by resolution find the company in default and at any time after five days after written notice of such finding of default shall have been given to the company by delivery of a copy of such resolution at the principal office of the company, the paving, alterations, relocations, repairs, changes or improvements required, may be made by the city and county of Honolulu and the cost thereof recovered from the company in the courts of the Territory.

(h) From every order of the board of supervisors under paragraph (f) of this section, except as to initial location, and from any finding of default by said board on account thereof, an appeal shall lie to the commission and every such appeal shall operate as a stay of such order and a stay of any action by the board of supervisors of the city and county of Honolulu under paragraph (g) of this section pending the decision or determination by the commission upon the appeal. [Am. L. 1933, c. 114.]

Sec. 7. Operation. (a) **Crossing.** Whenever it shall be necessary to cross the tracks of any other railway, the said company is authorized to construct and lay down, at its own expense, proper crossings, removing the rails so crossed for that purpose; but such construction and removal shall be done in such manner as to least interfere with the traffic of such other railway; and after the said crossings are laid, the expense of maintenance shall be borne equally by the company and the owners or lessees of such other railway.

(b) **Cars, rolling stock, busses, etc.** The company shall at all times maintain a sufficient number of cars, rolling stock, busses or other vehicles of transportation for the carriage of passengers as the commission may approve, require or direct for public convenience, and such other cars designed for the carriage of parcels and goods as the commission may approve or require.

(c) **Speed.** The rates of speed of the cars, rolling stock and other vehicles of the company shall be such as from time to time may be approved or required by the board of supervisors.

(d) **Rules and regulations.** The company shall make just and reasonable regulations regarding the maintenance and operation of said railway on and through said streets and roads. All such rules and regulations shall be subject to the approval of the commission.

(e) **Special fares for children.** The company may, with the approval of the commission, fix special rates of fare for children, under such regulations as may be approved by the commission. [Am. L. 1933, c. 114.]

(f) **Free transportation.** There shall be no free transportation provided, except to officers and employees of the company and members of the Honolulu police and fire departments when on duty and in uniform and such free transportation shall be subject to regulation by the commission.

(g) **Passage refused certain persons.** The person or persons lawfully in charge of any car, bus or other vehicle of transportation may refuse passage to any person or persons who refuse to pay the lawful fare, or to carry drunk or disorderly persons or persons affected with infectious or contagious diseases, and may eject therefrom, forcibly if necessary, any such person or persons.

(h) **Right of way.** The cars lawfully occupying and using the railway shall have the right of way upon the tracks constructed in said streets, roads and places, except that such right shall yield to the police authorities of the said city and county of Honolulu and in case of fire to the apparatus of the fire department of the city and county of Honolulu.

(i) **Office in Honolulu; residence of officers.** The company shall at all times have and maintain an office for the transaction of the business of the railway at some place in Honolulu convenient of access to the public; and all persons, other than the directors, having charge, management and control thereof and a majority of the directors shall be residents of the city and county of Honolulu, and all of the directors shall be residents of the Territory of Hawaii.

Sec. 8. Rights to acquire franchises and property of other companies. Subject to the prior approval of the commission as to price, terms and in all other respects, the company shall have the right to take over, either by purchase or lease, all or any part of the property, real and personal, rights, privileges and franchises, of any other railway, or of any power company, or of any company having objects in whole or in part similar to those by this Act authorized, which said property, rights, privileges and franchises are required for the purposes of this Act, and when so acquired shall be held, maintained and operated under and in accordance with the provisions of this Act.

Sec. 9. Issue and sale of stock. The company may increase its capital stock by the issuance and sale of common stock upon terms approved by the commission; **provided,** however, that bonds or notes the proceeds of which have been used for capital expenditures may be redeemed by capital stock of the company, as approved by the commission, to the amount of the proceeds received by the company from the sale of such bonds or notes. [Am. L. 1933, c. 114.]

Sec. 10. Mortgages, bonds, notes and loans. The company, subject to prior approval of the commission, in furtherance of the objects by this Act authorized, shall have the power to and shall, when directed by the commission as hereinafter provided, for the purposes of additions, extensions, increases, betterments and improvements, borrow money and secure the payment thereof with interest by mortgages of all or any portion of its property, which may include the franchise of the company, and for such purpose mortgage bonds may be issued secured by trust deed of such property as aforesaid. Such mortgages or trust deeds may, in addition to the property named above cover also any property or property rights to be acquired after their several dates as well as the income and receipts of the property from whatsoever source derived and may contain such provisions as the commission may deem advisable and proper for the protection of all concerned, relative to payments of interest and principal, possession and operation of said railway or other property, default, remedies, foreclosures, powers of mortgages or trustees in all matters, and all and every other matter which it may deem wise and proper to insert therein. **Provided** that nothing in this section contained shall operate to prevent the company from obtaining the usual business credits or from making promissory notes without security.

The commission may authorize the issuance of temporary bonds or notes to provide operating funds and prescribe the terms and rate of interest thereof and also authorize a reserve or sinking fund from earnings for the payment of such bonds, notes or other debt on operating account.

Sec. 11. Additions, extensions, increases, betterments and improvements. Additions, extensions, increases, betterments and improvements of the railway and the equipment and works connected therewith may be made or acquired by the company with the approval of the commission and shall be made whenever, after notice and an opportunity to be heard at a public hearing, it shall be directed so to do by the commission, and when so made or acquired, or when made or furnished by others, shall thereafter be maintained by it, except as herein provided; and increases and improvements in service to be rendered by the company shall likewise be made by it when directed so to do by the commission; **provided** that the commission shall not so direct unless it shall find after such hearing that the earnings of the company when maintaining and operating such additions, extensions, increases and improvements, whether of railway or service provided for in this section, together with the remainder of its railway and service and considering the possible increase in rate of fares, will be sufficient to meet all the reasonable costs of operation plus a fair return on the total property of the company including such additions, extensions, increases, betterments and improvements actually used for public utility purposes.

Additions and extensions or improvements made or furnished by others shall not be acquired unless the same shall be transferred to the company, and unless the commission shall upon application therefor and after notice to the company and a public hearing thereon, authorize the same, and unless the construction thereof accords with the general standard of construction of the railway.

The commission may require that any additions, extensions, betterments or improvements be constructed under contract for which public bids shall be called. [Am. L. 1933, c. 114.]

Note: **Sec. 12,** re "Annual payment to city and county", was **repealed** L. 1929, c. 253, s. 2. To avoid confusion the old section numbers are retained.

Sec. 13. Power of commission. The commission is hereby vested with power and jurisdiction by order to regulate, fix and change all rates, fares, charges, classifications, rules and practices made, charged or observed by the company, the manner in which the railway and all other property of the company is operated with reference to the safety or accommodation of the public, its form and method of keeping accounts, books and records, and its accounting system, the return upon its property, the incurring of indebtedness relating to its railway and the disposition of the proceeds thereof and of its railway income, and to regulate all of its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable territorial and federal laws and with the provisions of its franchise and articles of association, its classifications, rules, regulations, practices and service and all matters of every nature affecting the relations and transactions between it and the public and persons or corporations, and to do all things whether herein specifically designated or in addition thereto which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed and changed shall be just and reasonable and

such as shall provide a fair return on the property of the company actually used for public utility purposes, and such orders may be made after a hearing upon its own motion or upon complaint. Provided, however, there shall be only one fare in the closely built up portion of the territorial limits of the franchise. [Am. L. 1947, c. 133.]

The company shall, if so required by the commission, and under such requirements as the commission shall designate, enter into agreements for mutual transfer privileges, joint track, switching, terminal or other agreements with companies or others carrying on a like business.

Should public convenience, public welfare, or public safety require, the commission may order the company to remove the railway from any street or streets, **provided,** however, that an alternate location shall be designated by the board of supervisors, and **provided** further that such removal shall not substantially lessen the income of the company, and **provided** further that the capital investment lost by such removal shall be replaced from earnings as fixed by the commission over a period not exceeding ten years during which time the value of the company's property for rate making purpose shall not be lessened by reason of such loss, and in event of purchase all of such loss not theretofore so recovered shall be added to and considered as part of the purchase price.

This section shall not be held or construed to be a limitation upon any power of the public utilities commission of the Territory of Hawaii under chapter 128 of the Revised Laws of Hawaii, 1915, creating a public utilities commission or any amendments thereto or any other laws relating to public utilities within the Territory of Hawaii.

Sec. 14. Appeal from commission. Every order, decision, approval or direction of the commission made under any of the provisions of this Act shall be made in writing and after notice and hearing and from every order, decision, approval or direction an appeal shall lie to the supreme court of the Territory of Hawaii, in like manner and with like effect as an appeal lies from an order or decision of a circuit judge at chambers. Such appeal shall not of itself stay the operation of the order, decision, approval or direction appealed from, but the supreme court may stay the same, after a hearing upon motion therefor, upon such conditions as it may deem proper.

This section shall not be construed as meaning that the decision of the supreme court of Hawaii shall be final, but either party may appeal in the proper manner from said supreme court in accordance with all general laws now or hereafter enacted relating to appeals in whatever form from the supreme court of Hawaii; **provided,** however, that no appeal shall lie beyond said supreme court solely upon the ground of construction of a statute of the United States.

Sec. 15. Penalties. If the company shall violate or neglect or fail in any particular to conform to or to comply with any of the provisions of this Act or any lawful order of the commission or of the board of supervisors, it shall be liable to a penalty of not less than one hundred dollars ($100.00) nor more

than one thousand dollars ($1,000.00) for every such violation, neglect or failure, to be recovered by action brought by either the commission or the board of supervisors in the name of the Territory as the case may be. Any recovery under this section shall be a realization of the commission or the city and county of Honolulu as the case may be.

Sec. 16. Interfering with operations of railway unlawful. Any person wilfully or maliciously doing any of the following acts, to-wit: obstructing the free passage of the cars along the railway; defacing, marring or injuring the posts, wires or other appliances used in operating the railway; defacing, marring or injuring the cars or other property of the company; using the posts, fences, houses or other property of the company without consent for advertising purposes; or in any other manner inflicting injury to the property or causing annoyance and embarrassment in the enjoyment of the property rights or franchise rights of the company, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars ($100.00) or by imprisonment not exceeding three months, or by both such fine and imprisonment.

Sec. 17. Should it become necessary in the prosecution of any public work, or desirable in the public interest, to temporarily stop or suspend operation of cars on any track or line of the company, it may be done on order of the commission and in such case the company shall not be liable for any claim for damages to personal property by reason of the suspension of cars, delay to business or service or otherwise during the period in which said operation is suspended as aforesaid; and the company shall likewise not be liable if operation is temporarily suspended by act of God or the public enemy, or strikes or accidents.

Sec. 18. Police power reserved. This Act shall not be construed to limit the Territory of Hawaii in the exercise of its police powers.

Sec. 19. Forfeiture. Whenever the company refuses, fails or neglects to do, perform, carry out or comply with any Act, matter or thing requisite or required to be done under the provisions of this Act, or any order, direction or regulation of the commission and shall continue so to refuse, fail or neglect to do, perform, carry out or comply therewith, after due notice by the commission, the commission may have the franchise granted by this Act, and all rights and privileges granted thereunder, forfeited and declared null and void by appropriate proceedings in the nature of quo warranto before the circuit court of the first judicial circuit at law without a jury.

Sec. 20. Purchase by city and county of Honolulu. City and county authorized to purchase and operate. At any time after authorization therefor by a majority of the registered voters of the city and county of Honolulu voting thereon at an election held in manner and form and under the terms and conditions as may be hereafter provided for by the legislature of Hawaii for this purpose, the city and county of Honolulu, or its successors, may, upon not less than six months' notice in writing to the company, acquire the prop-

erty of the company used and useful for public utility purposes by paying to it the amount hereinafter provided, and assuming the bonded and all other debts and liabilities of the company at the date of said purchase.

The amount to be paid to the company for such purchase shall be determined by the public utilities commission; but such amount shall in no case exceed the actual cost of the physical property thereof, or the actual value of the tangible property so purchased; in both cases, less its bonded and all other debts and liabilities. The value of the franchise or good will or any other intangible element shall not be considered in determining the amount to be paid.

The valuation for the purpose of purchase shall be determined by the commission on the request of the board of supervisors prior to the election, provided, however, that such valuation shall be increased or diminished to correspond to the actual physical changes in the property of the company between the date of the valuation and the date of the actual purchase, the same to be determined by the commission.

Either the company or the purchaser may appeal to the supreme court of Hawaii from the decision of the commission by filing a written notice of appeal with the commission within five days after the decision is rendered and served on the company and the city and county of Honolulu. It shall be the duty of the commission immediately to certify up to the supreme court the record of its proceedings showing in such certificate the valuation claimed by the company, the valuation claimed by the purchaser, and the valuation as determined by the commission. Such certificate shall be accompanied by copies of all papers, documents, and evidences upon which the decision was based and a copy of such decision. Upon such appeal the supreme court may in its behalf take or require further evidence to be introduced by either party.

Within six months after the determination of the purchase price the same shall be paid to the company, and thereupon the franchise granted hereby shall cease and determine, and all the property of the company so valued shall become the property of the purchaser without any further conveyance or assignment; but the company shall make all such further conveyances and assignments as may be desired by the purchaser and approved by the commission or the said court on appeal.

The city and county of Honolulu or its successors, is hereby given the right under the conditions aforesaid to purchase, hold and operate the street railway system or systems so purchased and said city and county and its successors shall have all powers incidental thereto.

The city and county of Honolulu may finance the purchase of the property of said company by issuing bonds secured by said property and said bonds shall be a first charge on the income therefrom. Said bonds may be issued prior to the time of purchase containing provisions that they will become secured as herein specified as of the date of payment of the purchase price but prior thereto shall be a lien upon the general revenues of the city and county. Said city and county may, at its option, make said bonds a lien on

both the income of the railway and the general revenues of the city and county, notwithstanding any limitation as to amount of indebtedness now or hereafter existing and the amount of said bonds shall not be considered to limit the creation of other indebtedness by said city and county as now or hereinafter provided by law. **Provided,** however, that all revenues derived from time to time from said railway so purchased shall be paid into the treasury of said city and county and there held as a special fund for the following purposes for which alone it shall be expended:

1. The operation and maintenance of said railway.

2. Interest on the bonds issued for such purchase and bonded or other indebtedness of the company assumed by the city and county of Honolulu at the time of such purchase.

3. A sinking fund for the payment of said bonds and said assumed bonds and said other indebtedness for which purpose there shall be set aside each year not less than such a sum that the aggregate of the sums so set aside with interest thereon compounded annually at the rate of interest specified in the said bonds and said other indebtedness would amount to the par value of the said bonds and said other indebtedness at maturity nor more than such a sum that the aggregate of such sums with such interest would amount to the par value of the said bonds of said other indebtedness when redeemable.

4. The extension and improvement of said railway.

Sec. 21. Amendment, alterations or repeal. Congress, or the legislature of the Territory of Hawaii may at any time alter, amend, or repeal this act. [42 Sts. at L., p. 185, c. 81, s. 2.]

Sec. 22. Effective date. This Act shall take effect when the company shall notify the governor of the Territory of Hawaii in writing that it has accepted the terms hereof by an affirmative vote of the holders of two-thirds of the issued capital stock, **provided** such notice is so given within six months after the approval of this Act by Congress, otherwise this Act shall become null and void; such approval of Congress to be secured within two years from the approval of this Act by the governor of the Territory of Hawaii.

Approved the 26th day of April, A. D. 1921. [L. 1921, c. 186; ratified etc., August 24, 1921, 42 Sts. at L., p. 185, c. 81; R. L. 1925, Vol. II, p. 2082; am. L. 1925, c. 227; am. L. 1929, c. 253, s. 2; am. L. 1933, c. 114; R. L. 1935, p. 1259; am. L. 1935, c. 116; R. L. 1945, p. 1677; am. L. 1947, c. 133.]

Note: The company's original charter was L. 1898, c. 69; R. L. 1905, c. 66; R. L. 1915, c. 54, under which see 13 H. 363; 15 H. 3; 15 H. 304; 16 H. 1, 16 H. 319; 16 H. 580; 17 H. 241; 18 H. 15, aff'd. 211 U. S. 137; 18 H. 475; 18 H. 553, rev'd. 211 U. S. 282; 21 H. 136; 23 H. 387; 25 H. 532.

See also 1 U. S. D. C. Haw. 164.

WAHIAWA WATER COMPANY.

Series E-193: ACT 237

An Act to Provide for the Development, Storage, Distribution, and Supply of Water in and Near the District of Wahiawa, in the City and County of Honolulu, Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Definitions.** (a) The term "company" as used in this Act shall mean the Wahiawa Water Company, Limited, and its successors and assigns. (b) The term "district" as used in this Act shall mean and include that portion of the island of Oahu described as follows:

Beginning at government survey triangulation station "MAILI" and running thence as follows:

1. Northeasterly, in a direct course, to government survey triangulation station "HALEMANO"; thence

2. Northeasterly, in a direct course, to government survey triangulation station "PUU PEANINAIA"; thence

3. Southeasterly, in a direct course to a point on the Koolauloa district boundary at the top of the Koolau range, being the eastern end of the common boundary between Wahiawa and Waialua districts; thence

4. Southeasterly, following the top of the Koolau range along the meandering common boundary between the Wahiawa district and the Koolauloa district to the eastern end of the south boundary of the Wahiawa district; thence

5. Easterly, following the top of the Koolau range along the meandering common boundary between the Ewa district and the Koolauloa district to government survey triangulation station "PUU KAAUMAKUA", also designated as U. S. military monument No. 56; thence

6. Southwesterly, in a direct course to a point where the main government road from Pearl City to Wahiawa crosses the Waiahole ditch (the coordinates of said point as shown on War Department, corps of engineers, Kaukonahua Quadrangle Map being approximately 2,690,650 yards north and 997,940 yards east, the elevation of said point being approximately 684 feet above sea level); thence

7. Northwesterly, in a direct course to government survey triangulation station "PUU KAPAPA"; thence

8. Northwesterly, following the top of the Waianae range along the meandering common boundary between the Ewa district and the Waianae district, passing through Kolekole Pass, Puu Kumakalii (also known as government survey triangulation station "KUN"), Puu Kalena, and thereon along

said common boundary to the west end of the north boundary of the Wahiawa district, where the latter intersects the Waianae district boundary; thence

9. Northeasterly, along the north boundary of the Wahiawa district, passing through "PUU PANE" (marked by a 3-inch pipe in concrete and designated as U. S. military monument No. 11) and thereon along said north boundary to government survey triangulation station "MAILI", the point of beginning. [L. 1941, c. 237, s. 1.]

Section 2. **Development, storage and distribution of water.** The right is hereby granted to the company to develop, store, furnish, distribute, supply and sell water within the district for domestic, industrial and fire protection uses and for any other purposes which it may deem advisable, and from time to time, to construct, lay, maintain, replace, repair and operate such wells, pumping stations, reservoirs, pipes and pipe lines, water mains, valves, ditches, tunnels, conduits, dams, flumes, manholes, meters, meter boxes, hydrants, and such other appliances, structures and appurtenances as may from time to time be necessary or desirable for the development, storage, control, metering, transmission and distribution of water to the consumers thereof in, under, along, upon and over the streets, sidewalks, roads, highways, bridges, alleys, lanes and other public ways, within the district, and to connect said wells, pumping stations, reservoirs, pipes and pipe lines, water mains, ditches, tunnels, conduits, flumes and any other appliances, structures and appurtenances of the company with any public or private building or other structure or object and/or with the place or places of supply or storage of water. [L. 1947, c. 237, s. 2.]

Section 3. **Existing system and erection of buildings, etc.** The company shall also have the right to continue to maintain and operate the water development, storage and distribution system now owned by it in the district, consisting of the wells, pumps, dams, reservoirs, ditches, pipes and pipe lines, water mains, valves, hydrants, meters, meter boxes and the other appliances, structures and appurtenances used by it in connection with its water business; and the company shall have the right to construct, maintain and operate at such points in the district as from time to time may be necessary or advisable such additional buildings, structures, appliances and appurtenances as may be necessary or desirable for the purposes of the company. [L. 1947, c. 237, s. 3.]

Section 4. **Use of streets.** The methods by which the public roads and other places, specified in section 2 hereof, are to be used by the company shall be subject to the consent of the city and county of Honolulu with respect to city and county roads, and to the consent of the superintendent of public works of

the Territory of Hawaii with respect to territorial roads, and all instructions and directions made by said city and county or said superintendent of public works in connection with the use of such roads for the initial installation and subsequent replacement or repair of the company's equipment shall be strictly followed by the company to the end that the general public be inconvenienced as little as possible; and **provided** further, that whenever any road shall be excavated and holes or trenches made therein for laying, replacing or repairing the company's equipment, such holes or trenches shall be safeguarded and refilled as soon as possible, and the pavement, if any, of any such road shall be replaced in good order and condition; and **provided** that if such repair or restoration shall not be made to the satisfaction of said city and county or said superintendent of public works, within a reasonable time, said city and county, or superintendent of public works, may cause the work to be done at the expense of the company. [L. 1947, c. 237, s. 4.]

Section 5. **Meters and rates.** The company shall have the right to install, maintain, use and operate water meters and other means of measuring water supplied from time to time and to locate the same at such places as may be deemed by it necessary or desirable for their protection. The company shall have the right to charge, receive and collect from all consumers of water such reasonable rates for water, water service, and other services as may from time to time be fixed by order of the public utilities commission as provided in chapter 82 of the Revised Laws of Hawaii 1945, and all amendments thereof. [L. 1947, c. 237, s. 5.]

Section 6. **Cutting off service.** The company shall have the right to cut off the supply of water from any consumer who shall fail to comply with any rules or regulations of the company fixed or approved by the public utilities commission as provided for in section 11 hereof, or who shall refuse or fail to pay amounts due for water supplied by the company within such reasonable time as may be fixed for payment of the same, but such cutting off shall not prevent the company from using any remedies now or which may hereafter be authorized by law for collecting debts. [L. 1947, c. 237, s. 6.]

Section 7. **Expense of connections.** The company shall have the right to charge consumers or applicants for the use of water for the cost and expense of constructing connections between the main lines of its distribution system and the point where the water for each consumer is to be measured, such cost and expense to include the price of all materials and labor necessary to be used in constructing such connections; **provided,** however, that the company shall not be required to construct

said connections as aforesaid unless the applicant or applicants for water, if required, shall deposit in advance with the company a sum of money sufficient to pay the estimated cost and expense of constructing such connections. Costs or expense of constructing connections hereafter paid for by users of or applicants for water shall not be considered as part of the property of the company upon which a return shall be provided, or as part of the reasonable value of the property of the company under section 14 of this Act. [L. 1947, c. 237, s. 7.]

Section 8. **Extensions of main lines.** The public utilities commission is hereby granted the power to order the company to extend the main lines of its distribution system within the district whenever it finds that the extension is a public convenience and necessity and that (a) the cost and expense of constructing such extension will be assumed by the applicant or applicants for water, or (b) the public utilities commission shall have determined that the company will have reasonable assurance of adequate revenues from such extension to compensate it for its investment in making the extension. Costs or expenses of constructing extensions hereafter paid for by users of or applicants for water shall not be considered as part of the property of the company upon which a return shall be provided, or as part of the reasonable value of the property of the company under section 14 of this Act. [L. 1947, c. 237, s. 8.]

Section 9. **Inspection of plant, books, etc.** The entire plant, operation, books and accounts of the company shall at all times be subject to the inspection of the public utilities commission or other officer appointed by it for that purpose. [L. 1947, c. 237, s. 9.]

Section 10. **Public utilities commission.** The franchise granted by this Act and the person or corporation holding the same shall at all times be subject to all of the provisions of chapter 82 of the Revised Laws of Hawaii 1945, and all amendments thereof. [L. 1947, c. 237, s. 10.]

Section 11. **Rules and regulations.** The company may from time to time issue such reasonable rules and regulations covering the furnishing of water, water service, and other services by it, as may be fixed or approved by the public utilities commission as provided in chapter 82 of the Revised Laws of Hawaii 1945, and all amendments thereof, and such rules and regulations shall be followed by consumers. [L. 1947, c. 237, s. 11.]

Section 12. **Acquisition and disposition of property.** The company shall have the right to acquire, hold or take over, either by purchase, lease or otherwise, property, both real, personal or mixed, as may be necessary or useful in the conduct of its business; and the company shall also have the right to sell or otherwise dispose of any of such property no longer neces-

sary or useful in connection with its public utility business. [L. 1947, c. 237, s. 12.]

Section 13. **Eminent domain.** The company shall have the right and shall be vested with the power and authority to acquire by the exercise of the right of eminent domain such real property, rights of way and interest in, over, across, under and through any real property which may be necessary for the purposes of the company, in accordance with provisions of the laws of the Territory of Hawaii. [L. 1947, c. 237, s. 13.]

Section 14. **Public purchase.** The Territory of Hawaii, the city and county of Honolulu, or any political subdivision thereof, or the board of water supply of the city and county of Honolulu may at any time upon six months' notice in writing to the company, given pursuant to proper authority, acquire all the property of the company used or useful for public utility purposes by paying to it the amount hereafter provided and assuming the bonded and all other debts and liabilities of the company at the date of said purchase.

The amount to be paid to the company for such purchase shall be the reasonable value of the property. The reasonable value shall be determined by the public utilities commission, but such amount shall in no case exceed the cost of reproduction or replacement of the property, less depreciation and less the bonded and all other debts and liabilities of the company. The value of the franchise or good will shall not be considered in determining the amount to be paid.

Either the company or the purchaser may appeal to the supreme court of Hawaii from the decision of the public utilities commission by filing a written notice of appeal with the commission within fifteen days after the decision is rendered and served on the company. It shall thereupon be the duty of the public utilities commission immediately to certify up to the supreme court the record of its proceedings, showing in such certificate the valuation claimed by the company, the valuation claimed by the purchaser, and the valuation as determined by the commission. Such certificate shall be accompanied by copies of all papers, documents and evidences upon which the decision of the public utilities commission was based and a copy of such decision. Upon any such appeal the supreme court may, in its behalf, take or require further evidence to be introduced by either party.

Within six months after the determination of the purchase price by the public utilities commission, or by the supreme court if an appeal is taken, the same shall be paid to the company and thereupon the franchise granted hereby shall cease and determine and all the property of the company so valued shall become the property of the purchaser without any further

conveyance or assignment; but the company shall make all such further conveyances and assignments as may be desired by the purchaser and approved by the public utilities commission or by the supreme court in case of appeal.

In addition to the foregoing method of acquiring the property, the Territory, the city and county of Honolulu, or any political subdivision thereof, or the board of water supply of the city and county of Honolulu is hereby authorized to acquire the property by negotiation with the company and is also authorized to acquire the property by eminent domain proceedings pursuant to chapter 8 of the Revised Laws of Hawaii 1945, and all amendments thereto. In such proceedings it shall not be necessary to allege or prove that the use to which the Territory, the city and county of Honolulu, or any political subdivision thereof, or the board of water supply of the city and county of Honolulu will put the property in a more necessary public use than that to which it may already have been appropriated. [L. 1947, c. 237, s. 14.]

Section 15. **Mortgage and assignment.** The company, whenever from time to time it shall deem it expedient in the furtherance of its purposes, shall have the power to borrow money and to secure the payment thereof, with interest, by mortgage or conveyance of all or any portion of its property, including the franchise and privileges granted or obtained by virtue hereof, or if it deem it advisable bonds may be issued, secured by deed of trust of such property, franchise and privileges, together with all future acquired property, as well as the income and receipts of the property from whatever source derived, and in such form and on such terms as the company may deem advisable; **provided** that nothing in this section contained shall operate to prevent the company from obtaining the usual business credits and from making promissory notes without security. This franchise may be assigned by the company to any person, corporation or association succeeding to or acquiring its public utility business. The provisions of this section shall be subject to the requirements of chapter 82 of the Revised Laws of Hawaii 1945, and all amendments thereof, requiring prior approval of the public utilities commission for any borrowing and for any assignment, mortgage, encumbrance or other disposition of the company's public utility property, or franchise. [L. 1947, c. 237, s. 15.]

Section 16. **Franchise subject to amendment or repeal.** Congress, or the legislature of the Territory of Hawaii, may at any time alter, amend or repeal this franchise. [L. 1947, c. 237, s. 16.]

Section 17. Effective date. This Act shall take effect upon its approval by the Congress of the United States.

(Approved May 26, 1947.) **S.B. 284, Act 237.**

APPENDIX:

Note 8: BOND ISSUES.*

Series E-194: ACT 42

An Act Amending Act 186 of the Session Laws of Hawaii 1937, as Amended, Relating to Bonds of the County of Kauai for Public Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 186 of the Session Laws of Hawaii 1937, as amended, is hereby further amended by substituting for the words and figures therein reading:

"Civic Auditorium, Lihue .....$50,000.00",

the following words and figures:

"Kauai War Memorial Auditorium at Lihue .....$50,000.00".

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **S.B. 234, Act 42.**

* Note: For **1947 Bonds** authorized see index, and series **F-209** to **F-214**, post, and **A-42**, ante.

Series E-195: ACT 41

An Act Amending Act 251 of the Session Laws of Hawaii 1941, Relating to County of Kauai Bonds for Public Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 251 of the Session Laws of Hawaii 1941 is hereby amended by substituting for the words and figures therein reading:

"Kapaa Gymnasium ..... $25,000.00,"

the following words and figures:

"Kapaa High School Gymnasium on the High School Grounds ..... $25,000.00."

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **S.B. 232, Act 41.**

Series E-196: ACT 48

An Act to Amend Act 243 of the Session Laws of 1929, as Amended, Act 203 of the Session Laws of 1935, as Amended, and Act 247 of the Session Laws of 1937, as Amended, Relating to Public Improvements and the Issuance of Bonds Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following items in section 1 of Act 243 of the Session Laws of 1929, as amended by Act 122 of the Session Laws of 1931, is hereby amended to read as follows:

Item 8. Dredging and/or terminal improvements, Kaunakakai 25,000.00

Item 9. Purchase of land carrying water rights: Territorial hospital, Kaneohe 50,068.56

Section 2. That the following items in section 1 of Act 203 of the Session Laws of 1935, as amended by Act 228 of the Session Laws of 1937, as amended by Act 330 of the Session Laws of 1941, is hereby amended to read as follows:

Item 3. Wharf, dredging and terminal improvements, Port Allen 250,000.00

Item 4. Bridges across Ala Wai 100,000.00

Section 3. That the following items in section 1 of Act 247 of the Session Laws of 1937, as amended by Act 321 of the Session Laws of 1941 is hereby amended to read as follows:

Item 1. Wharf, dredging and terminal improvements, Port Allen 245,000.00

Section 4. This Act shall take effect upon its approval.

(Approved May 6, 1947.) **S.B. 348, Act 48.**

Note 9: PENSIONS.

Series E-197: ACT 241

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Provide a Pension for Ida Moniz Perry.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized to provide a monthly pension in the amount of seventy-four and 58/100 dollars for life for Ida Moniz Perry and to make the necessary appropriation therefor.

Section 2. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 480, Act 241.**

Series E-198: ACT 34

An Act Amending Act 175 of the Session Laws of Hawaii 1945, Relating to a Bonus for Pensioners, and Continuing the Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 175 of the Session Laws of Hawaii 1945, is hereby amended by substituting, in section 1 thereof, for the date "1947", the date "1949".

Section 2. The appropriations under section 3 of said Act 175 shall continue for the extended period required by the amendment of said Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1947.) **S.B. 4, Act 34.**

Series E-199: ACT 93

An Act for the Relief of Mrs. Annie Kaleiheana,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby granted to Mrs. Annie Kaleiheana, subject to the provisions of chapter 14, Revised Laws of Hawaii 1945, a life pension of $30.00 per month.

Section 2. Sufficient funds to cover the expenditures required by this Act are hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated.

Section 3. Said pension shall be payable to said Mrs. Annie Kaleiheana upon warrant issued by the treasurer of the Territory.

Section 4. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 116, Act 93.**

Series E-200: ACT 92

An Act for the Relief of Mrs. Elizabeth Kaulahao Keahi and Mrs. Apolonia Paa.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby granted to Mrs. Elizabeth Kaulahao Keahi and Mrs. Apolonia Paa, subject to the provisions of chapter 14, Revised Laws of Hawaii 1945, life pensions of $30.00 per month each.

Section 2. Sufficient funds to cover the expenditures required by this Act are hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated.

Section 3. Said pensions shall be payable to said Mrs. Elizabeth Kaulahao Keahi and to Mrs. Apolonia Paa upon warrants issued by the treasurer of the Territory.

Section 4. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 115, Act 92.**

Series E-201: ACT 247

An Act Authorizing the Treasurer of the Territory of Hawaii to Pay William K. Kekapa a Pension.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory of Hawaii is hereby authorized to pay each month the sum of thirty dollars ($30.00) to William K. Kekapa throughout his natural life.

Section 2. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 475, Act 247.**

Series E-202: ACT 59

An Act to Extend Certain Benefits of Act 73 (Series A-19) of the Session Laws of Hawaii 1945, relating to the Employees' Retirement System of the Territory, to Daniel F. Balch and to Adjust His Service Retirement Allowance to Conform Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The trustees of the employees' retirement system of the Territory are hereby authorized and directed to grant to Daniel F. Balch additional service credit to the extent provided by chapter 15 of the Revised Laws of Hawaii 1945, as amended by Act 73 (Series A-19) of the Session Laws of Hawaii 1945, and to adjust his service retirement allowance to conform thereto, effective as of July 1, 1945.

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **S.B. 255, Act 59.**

Series E-203: ACT 71

An Act to Allow Credit in the Employees' Retirement System of the Territory to Robert M. Belt While in Military Service.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That Robert M. Belt be entitled to and is hereby to be given full retirement credit for his military service from January 14, 1942, to December 6, 1945, both dates inclusive.

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1947.) **S.B. 325, Act 71.**

Series E-204: ACT 70

An Act to Allow Credit in the Employees' Retirement System of the Territory to Benjamin F. Rush While in Military Service.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That Benjamin F. Rush, upon the payment by him to the employees' retirement system of the Territory of contributions (plus interest) which he would have normally paid had he stayed in the service of the city and county of Honolulu at the salary he was receiving when separated from service, is to be given full retirement credit for his military service from February 17, 1941, to September 30, 1943, both dates inclusive.

Section 2. The city and county of Honolulu is authorized and directed to pay the government share of retirement contribution (plus interest) with which to match the employees' contributions covered by section 1.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1947.) **S.B. 169, Act 70.**

Series E-205: ACT 5

An Act to Amend Act 113 of the Session Laws of Hawaii 1941, as Amended, Relating to Temporary Waiver of Age Retirement Requirements of Members of the Employees' Retirement System of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 113 of the Session Laws of Hawaii 1941, as amended, is hereby further amended by changing the date "1947" at the end of Section 1 thereof to read "1949".

Section 2. This Act shall take effect upon its approval.

(Approved April 17, 1947.) **H.B. 232, Act 5.**

PART F: TEMPORAL ACTS

1. GENERAL APPROPRIATIONS.

Series F-206: ACT 203
[Biennial Appropriation.]

An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1949.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated for the biennial period beginning July 1, 1947 and ending June 30, 1949 out of moneys in the treasury received from general revenues:

BOARD OF AGRICULTURE AND FORESTRY

Board of Administration		**$ 145,738.00**
A. Personal services	$ 125,628.00	
President 20,760.00		
Other personal services 104,868.00		
B. Other current expenses	19,260.00	
C. Equipment	850.00	
Division of Animal Industry		**203,958.00**
A. Personal services	170,638.00	
B. Other current expenses	18,470.00	
C. Equipment	1,850.00	
G. Rights and obligations	10,000.00	
M. Motor vehicles	3,000.00	
Division of Entomology		**274,115.00**
A. Personal services	225,790.00	
B. Other current expenses	44,325.00	
C. Equipment	1,000.00	
M. Motor vehicles	3,000.00	
Division of Forestry		**492,618.00**
A. Personal services	444,088.00	
B. Other current expenses	41,580.00	
C. Equipment	1,450.00	
E. Structures and permanent improvements to land	2,500.00	
M. Motor vehicles	3,000.00	

(AGRICULTURE AND FORESTRY—Continued)

Division of Fish and Game		**156,319.00**
A. Personal services	140,909.00	
The salaries of five additional fish and game wardens, payable out of the foregoing appropriation, shall be reimbursed to said appropriation from the Fish and Game Special Fund.		
B. Other current expenses	14,680.00	
C. Equipment	730.00	
Division of Marketing		**97,817.00**
A. Personal services	83,817.00	
B. Other current expenses	14,000.00	
TOTAL: Board of Agriculture and Forestry		$ 1,370,565.00

ATTORNEY GENERAL

Attorney General's Office		**$ 292,842.00**
A. Personal services	263,222.00	
Attorney General 23,360.00		
Assistant attorney general.. 19,560.00		
Other personal services 220,302.00		
B. Other current expenses	21,120.00	
C. Equipment	8,500.00	
TOTAL: Attorney General		$ 292,842.00

AUDITING DEPARTMENT

Auditor's Office		**$ 337,254.00**
A. Personal services	306,447.00	
Auditor 20,760.00		
Deputy auditor 18,560.00		
Other personal services 267,127.00		
B. Other current expenses	28,094.00	
C. Equipment	2,713.00	
Veterans, Hawaii Guard 1893-1898		**25,000.00**
A. Personal services	840.00	
F. Fixed charges—pensions	24,160.00	
Permanent Pensions		**39,720.00**
TOTAL: Auditing Department		$ 401,974.00

BUREAU OF THE BUDGET

Bureau proper		**$ 182,850.00**
A. Personal services	161,265.00	
Director 21,560.00		
Other personal services 139,705.00		
B. Other current expenses	21,350.00	
C. Equipment	235.00	
Supplies Division Revolving Fund		**25,000.00**
B. Other current expenses	25,000.00	
TOTAL: Bureau of the Budget		$ 207,850.00

CIVIL SERVICE COMMISSION AND PERSONNEL CLASSIFICATION BOARD

Civil Service Commission and Personnel Classification Board		**$ 132,626.00**
A. Personal services	120,508.00	
Personal executive 15,480.00		
Other personal services 105,028.00		
B. Other current expenses	11,115.00	
C. Equipment	1,003.00	
TOTAL: Civil Service Commission and Personnel Classification Board		$ 132,626.00

EMPLOYEES' RETIREMENT SYSTEM

Employees' Retirement System		**$ 4,342,526.00**
A. Personal services	172,768.00	
B. Other current expenses	19,275.00	
C. Equipment	2,200.00	
F. Fixed charges	4,148,283.00	
Included in the appropriation of $4,069,675.00 for the Pension Accumulation Fund is the sum of $113,746.00 for contribution on account of employees of the following tubercular hospitals:		
Kula Sanitarium 47,991.00		
Puumaile Hospital 44,821.00		
Samuel Mahelona Memorial Hospital 20,934.00		
Total 113,746.00		
TOTAL: Employees' Retirement System		$ 4,342,526.00

EXECUTIVE DEPARTMENT

Governor's Office and Washington Place		$ **75,000.00**
B. Other current expenses	75,000.00	
To be expended at the discretion of the governor		
Governor's Contingent Fund		**200,000.00**
From which expenditures may be made only with the approval of the governor for urgent needs for which no specific appropriation or an insufficient appropriation is made herein, **except** that no expenditure shall be made from this fund to increase or supplement any salary, pay or compensation, or to provide any salary, pay or compensation; a detailed account of all expenditures made from this appropriation shall be submitted to the next legislature.		
TOTAL: Executive Department		$ 275,000.00

HAWAII VISITORS' BUREAU

Hawaii Visitors' Bureau		$ **75,000.00**
B. Other current expenses	75,000.00	
Provided that this appropriation shall become available from time to time in fractional amounts equal to one-half the amount then received from individuals and business organizations by said Hawaii Visitors' Bureau, five members of which bureau to be appointed by the governor for terms of one year each or until a successor is appointed, one of said members to be selected to represent each of the island counties of Hawaii, Maui, Honolulu and Kauai, upon nomination of the boards of supervisors of the respective counties in conjunction with the principal civic or commercial organizations of said counties, and one to be selected by the governor to represent the Territory at large; **provided**, further, that said funds shall be expended exclusively for display advertising space, in metropolitan newspapers and national magazines of mainland		

(HAWAII VISITORS' BUREAU—Continued)

United States and/or Canada, and for broadcast or radio, and all such advertising shall be placed through an advertising agency incorporated in the Territory of Hawaii and holding such corporate status for a period of at least three years prior to receiving such appointment, which agency in order to qualify must possess official recognition from representative publishers' associations on the mainland, such as American Newspaper Publishers' Association, Periodical Publishers' Association, etc., as indicating its ability to fully function as a qualified national advertising agency; said moneys shall be issued to said Hawaii Visitors' Bureau by warrants of the auditor of the Territory of Hawaii only when satisfactory evidence has been presented to the said auditor that such an amount has been collected in cash and deposited in a bank to the credit of the Hawaii Visitors' Bureau for this purpose; **provided,** further, that not less than $25,000.00 of the amount hereby appropriated shall be expended for radio broadcasting from within the Territory.		
TOTAL: Hawaii Visitors' Bureau		$ 75,000.00

HAWAIIAN HOMES COMMISSION

Hawaiian Homes Commission		**$ 167,329.00**
Contribution to administration account:		
A. Personal services	228,676.00	
B. Other current expenses	39,905.00	
C. Equipment	8,240.00	
M. Motor vehicles	4,450.00	
E. Structures and permanent improvements to land	3,420.00	
F. Fixed charges	17,638.00	
Total	302,329.00	
Less: Estimated receipts from rentals of "available land"	135,000.00	
TOTAL: Hawaiian Homes Commission		$ 167,329.00

BOARD OF HEALTH

General Administration			$ 285,917.00
A. Personal services		250,223.00	
President	21,560.00		
Director of local health services	19,560.00		
Other current expenses	209,103.00		
B. Other current expenses		31,576.00	
C. Equipment		2,518.00	
M. Motor vehicles		1,600.00	
Bureau of Communicable Diseases			55,153.00
A. Personal services		33,352.00	
B. Other current expenses		19,425.00	
C. Equipment		776.00	
M. Motor vehicles		1,600.00	
Bureau of Crippled Children			50,000.00
B. Other current expenses		50,000.00	
Division of Pure Food and Drugs			98,121.00
A. Personal services		91,653.00	
B. Other current expenses		6,313.00	
C. Equipment		155.00	
Bureau of Laboratories			139,662.00
A. Personal services		112,713.00	
B. Other current expenses		23,870.00	
C. Equipment		3,079.00	
Bureau of Maternal and Child Health			57,071.00
A. Personal services		26,599.00	
B. Other current expenses		30,222.00	
C. Equipment		250.00	
Bureau of Mental Hygiene			122,759.00
A. Personal services		94,445.00	
B. Other current expenses		21,217.00	
C. Equipment		697.00	
M. Motor vehicles		6,400.00	
Mosquito Control			190,859.00
A. Personal services		181,266.00	
B. Other current expenses		8,438.00	
C. Equipment		1,155.00	

(BOARD OF HEALTH—Continued)

Bureau of Public Health Nursing		**745,289.00**
A. Personal services	613,469.00	
B. Other current expenses	55,931.00	
C. Equipment	2,289.00	
M. Motor vehicles	73,600.00	
Plague and Typhus Control		**610,779.00**
A. Personal services	546,918.00	
B. Other current expenses	40,734.00	
C. Equipment	527.00	
M. Motor vehicles	22,600.00	
Government Physicians		**137,760.00**
A. Personal services	131,760.00	
B. Other current expenses	6,000.00	
The government physician for Northwest Kohala shall also serve as the government physician for South Kohala.		
Bureau of Sanitation		**485,826.00**
A. Personal services	402,493.00	
B. Other current expenses	35,739.00	
C. Equipment	5,994.00	
M. Motor vehicles	41,600.00	
Bureau of Tuberculosis		**158,705.00**
A. Personal services	102,285.00	
B. Other current expenses	54,450.00	
C. Equipment	370.00	
M. Motor vehicles	1,600.00	
Bureau of Venereal Diseases		**39,497.00**
A. Personal services	26,592.00	
B. Other current expenses	12,905.00	
Bureau of Vital Statistics		**111,069.00**
A. Personal services	94,481.00	
B. Other current expenses	13,230.00	
C. Equipment	3,358.00	
The appropriation of $5,700 for the proposed position of "marriage license clerk, island of Oahu" shall become available only in the event senate bill no. 212 becomes law. [Act 21, Sr. D-181]		
TOTAL: Board of Health		$ 3,288,467.00

BOARD OF HOSPITALS AND SETTLEMENT

General Administration		**59,646.00**
A. Personal services	55,206.00	
B. Other current expenses	4,290.00	
C. Equipment	150.00	
Board's Clinic		**35,218.00**
A. Personal services	30,880.00	
B. Other current expenses	4,288.00	
C. Equipment	50.00	
Care and Placement of Dependent Children under the care and custody of the board of hospitals and settlement		**35,935.00**
B. Other current expenses	35,935.00	
Upkeep of church		**1,440.00**
B. Other current expenses	1,440.00	
Repairs and maintenance, **Father Damien Memorial**		**2,460.00**
B. Other current expenses	2,460.00	
Relief of Persons Released from Kalihi Hospital and Kalaupapa Settlement		**1,000.00**
F. Fixed charges	1,000.00	
Aiding Indigent Persons Released from Kalihi Hospital and Kalaupapa Settlement		**600.00**
F. Fixed charges	600.00	
Kalaupapa Settlement		**1,300,839.00**
A. Personal services	632,338.00	
B. Other current expenses	586,977.00	
C. Equipment	8,480.00	
E. Structures and permanent improvements to land	25,000.00	
F. Fixed charges	27,544.00	
M. Motor vehicles	20,500.00	
Kalaupapa Store		**3,000.00**
B. Other current expenses	3,000.00	
Kalihi Hospital		**212,761.00**
A. Personal services	125,412.00	
B. Other current expenses	77,445.00	
C. Equipment	5,752.00	
F. Fixed charges	1,752.00	
M. Motor vehicles	2,400.00	

(BOARD OF HOSPITALS—Continued)

Rental, Kalihi Site		**3,240.00**
B. Other current expenses	3,240.00	
Parole and Suspect Division		**16,560.00**
A. Personal services	11,450.00	
B. Other current expenses	5,110.00	
Permanent Pensions		**12,177.00**
F. Fixed charges	12,177.00	
Welfare Division		**4,916.00**
A. Personal services	4,566.00	
B. Other current expenses	350.00	
TOTAL: Board of Hospitals and Settlement		$ 1,689,792.00

DEPARTMENT OF INSTITUTIONS

Bureau of Crime Statistics and Identification		$ **42,924.00**
A. Personal services	39,444.00	
B. Other current expenses	1,450.00	
C. Equipment	2,030.00	
Office of Director		**137,945.00**
A. Personal services	125,720.00	
Director 21,560.00		
Other personal services 104,160.00		
B. Other current expenses	10,350.00	
C. Equipment	1,875.00	
Territorial Hospital		**2,163,488.00**
A. Personal services	1,453,273.00	
B. Other current expenses	666,200.00	
C. Equipment	39,690.00	
E. Structures and permanent improvements to land	1,000.00	
M. Motor vehicles	3,325.00	
Kawailoa Training School for Girls		**375,990.00**
A. Personal services	230,186.00	
B. Other current expenses	138,700.00	
C. Equipment	5,704.00	
M. Motor vehicles	1,400.00	
Kulani Prison Camp		**267,135.00**
A. Personal services	110,710.00	
B. Other current expenses	142,700.00	
C. Equipment	6,200.00	
M. Motor vehicles	7,525.00	

(INSTITUTIONS—Continued)

Kulani Prison Camp—Special Account		**250,000.00**
To be allotted by the director of the bureau of the budget, with the approval of the governor, primarily for surveys, preparation of plans and specifications and development of an assured water supply, and a prison camp for not more than 150 prisoners at Kulani	250,000.00	
Oahu Prison		**730,650.00**
A. Personal services	412,550.00	
B. Other current expenses	307,000.00	
C. Equipment	4,700.00	
M. Motor vehicles	6,400.00	
Olinda and Keanae Prison Camps		**73,389.00**
A. Personal services	41,239.00	
B. Other current expenses	28,350.00	
C. Equipment	1,800.00	
M. Motor vehicles	2,000.00	
Haleakala Road Camp		**79,039.00**
A. Personal services	41,239.00	
B. Other current expenses	30,000.00	
C. Equipment	1,800.00	
M. Motor vehicles	6,000.00	
Board of Paroles and Pardons		**83,895.00**
A. Personal services	78,605.00	
B. Other current expenses	4,290.00	
C. Equipment	1,000.00	
Division of Parole and Homeplacement		**188,735.00**
A. Personal services	139,843.00	
B. Other current expenses	18,558.00	
Homeplacements	20,500.00	
Waialee Training School for Boys 9,000.00		
Kawailoa Training School for Girls 9,000.00		
Waimano Home 2,500.00		
C. Equipment	834.00	
M. Motor vehicles	9,000.00	
Prisoners' Compensation		**15,000.00**
A. Personal services	15,000.00	

(INSTITUTIONS—Continued)

Waialee Training School for Boys		**418,545.00**
A. Personal services	245,515.00	
B. Other current expenses	151,230.00	
C. Equipment	4,800.00	
E. Structures and permanent improvements to land	12,300.00	
M. Motor vehicles	4,700.00	
Waimano Home		**1,184,887.00**
A. Personal services	753,607.00	
B. Other current expenses	323,300.00	
C. Equipment	10,380.00	
E. Structures and permanent improvements to land	92,000.00	
M. Motor vehicles	5,600.00	
TOTAL: Department of Institutions		$ 6,011,622.00

QUASI-PUBLIC INSTITUTIONS

F. Fixed Charges		**$ 6,185,969.00**
Grants, subsidies and contributions:		
Kauikeolani Children's Hospital	40,000.00	
Kuakini Hospital	25,000.00	
St. Francis Hospital	52,000.00	
G. N. Wilcox Memorial Hospital	40,000.00	
Kapiolani Maternity & Gynecological Hospital	32,000.00	
Aiea Hospital	20,000.00	
Wahiawa General Hospital	58,000.00	
The Queen's Hospital	125,000.00	
Shingle Memorial Hospital	36,000.00	
None of the above enumerated hospitals for which moneys have been appropriated shall receive more than two-thirds of said moneys unless a uniform accounting system, which shall be prescribed for all such hospitals by the auditor of the Territory (who is hereby authorized and directed to prescribe such system) in consultation with such hospitals, shall be installed in such hospital prior to January 1, 1948.		
Kula Sanatorium	643,760.00	
Leahi Hospital	2,650,400.00	
Leahi Hospital-Waimano Annex	627,050.00	

(QUASI-PUBLIC INSTITUTIONS—Continued)

Lunalilo Home	79,870.00	
Samuel Mahelona Memorial Hospital..	436,725.00	
Puumaile Hospital	1,320,164.00	
The appropriation for the Puumaile Hospital shall be available to other tubercular hospitals on the basis of $5.75 per patient for each and every patient from the island of Hawaii that may be transferred to or cared for by any of the other tubercular hospitals. Payments shall be made monthly from said appropriation upon the presentation of a certified invoice from any of the other tubercular hospitals, less any revenue received from any of such patients, and shall be used to continue operations at the present permanent site of Puumaile Home as well as at the temporary auxiliary home presently maintained at the General Lyman Airfield.		
TOTAL: Quasi-Public Institutions		$ 6,185,969.00

JUDICIAL DEPARTMENT

Supreme Court		$ 107,005.00
A. Personal services	70,481.00	
B. Other current expenses	25,850.00	
C. Equipment	10,674.00	
District Court of Kalawao		3,960.00
A. Personal services	3,960.00	
Land Court		37,210.00
A. Personal services	36,210.00	
B. Other current expenses	850.00	
C. Equipment	150.00	
First Circuit Court		945,279.00
A. Personal services	798,711.00	
B. Other current expenses	128,555.00	
C. Equipment	12,013.00	
F. Fixed charges	6,000.00	

(JUDICIAL DEPARTMENT—Continued)

Second Circuit Court		**184,870.00**
A. Personal services	144,670.00	
B. Other current expenses	31,700.00	
C. Equipment	1,000.00	
F. Fixed charges	7,500.00	
Third Circuit Court		**199,095.00**
A. Personal services	135,390.00	
B. Other current expenses	57,780.00	
C. Equipment	1,925.00	
M. Motor vehicles	4,000.00	
Fifth Circuit Court		**127,676.00**
A. Personal services	85,454.00	
B. Other current expenses	34,280.00	
C. Equipment	3,867.00	
M. Motor vehicles	4,075.00	
TOTAL: Judicial Department		$ 1,605,095.00

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Department of Labor and Industrial Relations		$ **392,694.00**
A. Personal services	355,694.00	
B. Other current expenses	33,700.00	
C. Equipment	3,300.00	
Hawaii Employment Relations Board		**50,000.00**
To cover the expenses necessary to the administration of Act 250, Session Laws of Hawaii 1945 or as the same may from time to time be amended	50,000.00	
TOTAL: Department of Labor and Industrial Relations		442,694.00

LIBRARIES

Library of Hawaii		**482,137.00**
A. Personal services	420,263.00	
B. Other current expenses	29,189.00	
C. Equipment	32,685.00	
Hawaii County Library		**119,762.00**
A. Personal services	94,693.00	
B. Other current expenses	8,569.00	
C. Equipment	16,500.00	

(LIBRARIES—Continued)

Maui County Free Library		**108,067.00**
A. Personal services	84,752.00	
B. Other current expenses	8,515.00	
C. Equipment	14,800.00	
Kauai Public Library Association, Limited		**81,879.00**
A. Personal services	67,086.00	
B. Other current expenses	5,853.00	
C. Equipment	8,940.00	
TOTAL: Libraries		$ 791,845.00

MILITARY DEPARTMENT

Hawaii National Guard		**$ 446,215.00**
A. Personal services	332,390.00	
B. Other current expenses	104,825.00	
C. Equipment	3,000.00	
M. Motor vehicles	6,000.00	
TOTAL: Military Department		$ 446,215.00

PUBLIC ARCHIVES

Public Archives		**$ 75,773.00**
A. Personal services	69,014.00	
B. Other current expenses	4,035.00	
C. Equipment	2,724.00	
TOTAL: Public Archives		$ 75,773.00

DEPARTMENT OF PUBLIC INSTRUCTION

Administration		**$ 706,224.00**
A. Personal services	586,149.00	
Superintendent 20,760.00		
Other personal services 565,389.00		
B. Other current expenses	88,750.00	
C. Equipment	29,325.00	
M. Motor vehicles	2,000.00	

(PUBLIC INSTRUCTION—Continued)

Instruction		**20,582,541.00**
A. Personal services	19,989,774.00	
The department of public instruction shall refrain from making wholesale dismissals in filling vacant positions and otherwise and shall make appropriate transfers through a gradual process, which will bring the average pupil-teacher ratio as closely as possible to one teacher for each 32 pupils by December 31st, 1947.		
B. Other current expenses	260,487.00	
C. Equipment	332,280.00	

Included in this total is the sum of $273,132.00 for **kindergartens,** which sum shall be available and expendable only for the establishment and maintenance of kindergartens by the creation of 72 teaching positions to be distributed as follows:

	Number of new positions to be created		
	1947-48	1948-49	Total for Biennium
First Representative District			
Kalanianaole	1	1	2
Waiakea Kai	2		2
Waiakea Waena	2		2
Mt. View		1	1
Olaa		1	1
Pahoa		1	1
Total	5	4	9
Second Representative District			
Halaula	1		1
Holualoa	1	1	2
Pahala	2		2
Waimea	1		1
Honaunau		1	1
Hookena		1	1
At School selected by D.P.I.		1	1
Total	5	4	9

(PUBLIC INSTRUCTION—Continued)

	Number of new positions to be created		
Third Representative District			
Hana	1		1
Kealahou	1		1
Makawao	1		1
Maunaloa	1		1
Lanai	1	1	2
Hoolehua		1	1
Keahua		1	1
At School selected by D.P.I.		1	1
Total	5	4	9
Fourth Representative District			
At Schools selected by D.P.I.	9	9	18
Fifth Representative District			
Ewa	2		2
Hauula	1		1
Kahuku	1		1
Kalihi Kai	1	1	2
Kapalama	1		1
Kauluwela	1	1	2
Lanakila	1		1
Puuhale	1	1	2
Likelike		1	1
Maemae		1	1
Aiea		1	1
Ahrens		2	2
Halemano		1	1
Total	9	9	18
Sixth Representative District			
Kalaheo	1	1	2
Kaumakani	1		1
Kekaha	1	1	2
Kilauea	1		1
Koloa	1		1
Eleele		1	1
Kapaa		1	1
Total	5	4	9
Grand Total	38	34	72

(PUBLIC INSTRUCTION—Continued)

Auxiliary Services		**1,398,226.00**
A. Personal services	1,146,517.00	
B. Other current expenses	186,484.00	
C. Equipment	65,225.00	
Operation of School Plants		**22,734.00**
A. Personal services	13,859.00	
B. Other current expenses	8,600.00	
C. Equipment	275.00	
Maintenance of School Plants		**15,675.00**
A. Personal services	5,675.00	
B. Other current expenses	10,000.00	
Capital Outlay		**27,500.00**
E. Structures and permanent improvements to land	27,500.00	
General Charges		**2,000.00**
B. Other current expenses	2,000.00	
TOTAL: Department of Public Instruction		$ 22,754,900.00

DEPARTMENT OF PUBLIC LANDS AND SURVEY

Public Lands and Survey		**$ 496,097.00**
A. Personal services	423,635.00	
Commissioner of Public Lands and territorial Surveyor 20,760.00		
Other personal services 402,875.00		
B. Current expenses	68,300.00	
Other current expenses 28,300.00		
Triangulation systems 40,000.00		
C. Equipment	2,162.00	
M. Motor vehicles	2,000.00	
Included in this total appropriation is the sum of $10,305 for the land use survey and the selection of land should Congress pass legislation giving Hawaii statehood.		
Division of Hydrography		**73,286.00**
A. Personal services	52,386.00	
B. Other current expenses	19,200.00	
M. Motor vehicles	1,700.00	

(PUBLIC LANDS—Continued)

Investigation of Water Resources in cooperation with the United States Geological Survey		**51,620.00**
B. Other current expenses	51,620.00	
Hawaiian Homes Commission		**535,000.00**
Transfers to Hawaiian Homes Loan Fund	400,000.00	
Transfers to Hawaiian Homes Administration Fund	135,000.00	
TOTAL: Department of Public Lands and Survey		$ 1,156,003.00

DEPARTMENT OF PUBLIC WORKS

Office of the Superintendent		$ **102,392.00**
A. Personal services	92,647.00	
Superintendent 21,560.00		
Other personal services 71,087.00		
B. Other current expenses	8,290.00	
C. Equipment	1,455.00	
Maintenance, Repairs, Additions and Improvements to Public Buildings, Grounds and Government Property		**955,383.00**
A. Personal services	377,163.00	
B. Other current expenses	419,044.00	
C. Equipment	36,176.00	
E. Structures and permanent improvements to land	123,000.00	
Maintenance of Government Cemeteries		**3,480.00**
A. Personal services	3,480.00	
TOTAL: Department of Public Works		$ 1,061,255.00

RADIO COMMISSION

Radio Commission		$ **54,825.00**
A. Personal services	46,213.00	
B. Other current expenses	8,262.00	
C. Equipment	350.00	
TOTAL: Radio Commission		$ 54,825.00

SECRETARY OF HAWAII

Expenses of Election		**$ 69,000.00**
A Personal services	54,000.00	
B. Other current expenses	14,000.00	
C. Equipment	1,000.00	
Hawaiian Birth Registration		**32,730.00**
A. Personal services	30,200.00	
B. Other current expenses	2,530.00	
Secretary of Hawaii		**6,398.00**
A. Personal services	6,398.00	
Secretary's Office		**34,853.00**
A. Personal services	29,253.00	
B. Other current expenses	3,000.00	
C. Equipment	400.00	
M. Motor vehicles	2,200.00	
Publication Session Laws of Hawaii		**31,000.00**
A. Personal services	6,000.00	
B. Other current expenses	25,000.00	
TOTAL: Secretary of Hawaii		$ 173,981.00

TAX COMMISSIONER

Tax Commissioner's Office		**$ 1,905,418.00**
A. Personal services	1,730,988.00	
Tax Commissioner 20,760.00		
Other personal services 1,710,228.00		
B. Other current expenses	131,525.00	
C. Equipment	27,026.00	
M. Motor vehicles	15,879.00	
Taxation Maps Bureau		**133,810.00**
A. Personal services	125,205.00	
B. Other current expenses	7,475.00	
C. Equipment	1,130.00	
Boards of Review and Tax Appeal Court		**10,000.00**
B. Other current expenses	10,000.00	
TOTAL: Tax Commissioner		$ 2,049,228.00

TERRITORIAL COUNCIL ON VETERANS' AFFAIRS

Territorial Council on Veterans' Affairs		$ 194,795.00
A. Personal services	168,941.00	
B. Other current expenses	21,264.00	
C. Equipment	4,590.00	
TOTAL: Territorial Council on Veterans' Affairs		$ 194,795.00

TREASURY DEPARTMENT

Treasurer's Office		$ 130,060.00
A. Personal services	115,865.00	
Treasurer 20,760.00		
Other personal expenses 95,105.00		
B. Other current expenses	12,495.00	
C. Equipment	1,700.00	
Deputy Bank Examiner		135,709.00
A. Personal services	122,149.00	
B. Other current expenses	12,560.00	
C. Equipment	1,000.00	
Fire Marshal and Insurance Commissioner		96,130.00
A. Personal services	78,910.00	
B. Other current expenses	11,900.00	
C. Equipment	5,320.00	
Bureau of Conveyances		275,007.00
A. Personal services	250,339.00	
B. Other current expenses	16,850.00	
C. Equipment	7,818.00	
Expenses Official Bonds		19,000.00
B. Other current expenses	19,000.00	
Public Debt Service		8,625.00
B. Other current expenses	8,625.00	
Interest on Bonded Debt		630,286.00
F. Fixed charges	630,286.00	
Retirement of Bonded Debt		1,622,000.00
F. Fixed charges	1,622,000.00	
Territorial Insurance Fund		40,000.00
F. Fixed charges	40,000.00	
TOTAL: Treasury Department		$ 2,956,817.00

UNIVERSITY OF HAWAII

University of Hawaii	**$ 3,708,576.00**
All funds expendable at the direction and under the supervision of the Board of Regents of the University of Hawaii. **Provided,** however, that the amount of this appropriation necessary to match allotments made by the Federal government for extension work shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. **Provided,** further, that disbursements matching Federal allotments may be regularly audited by the Federal auditor and shall be subject to the same limitations as respects the character of expenditures of the Federal funds which it offsets, and **provided,** further, that this total appropriation includes the sum of $10,943.00 for volcanology and that the University may employ a volcanologist without consideration as to age, any other provision of law to the contrary notwithstanding.	
TOTAL: University of Hawaii	3,708,576.00
GRAND TOTAL OF TOTALS	**$ 61,913,564.00**

Section 2. Changes and transfers may not be made by the head of a department or establishment between the classification "A—Personal Services", "B—Other Current Expenses" and "C—Equipment", of the schedules of any organization unit of any department or establishment. All sums which have not been expended for the specific lettered schedule of appropriations shall lapse into the general fund of the Territory of Hawaii.

Section 3. This Act shall take effect from and after July 1, 1947.

(Approved May 20, 1947.) **S.B. 9, Act 203.**

1947 DEFICIENCY APPROPRIATIONS.

Series F-207: ACT 137

An Act Making Appropriations Out of the General Revenues to Cover Certain Deficiencies for Governmental Purposes for the Biennial Period Ending June 30, 1947.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, respectively, are hereby appropriated for the objects and purposes hereinafter specified, in addition to any appropriation made for the same or similar purposes by another Act, out of moneys in the treasury received from general revenues:

CIVIL SERVICE COMMISSION AND PERSONNEL CLASSIFICATION BOARD

Civil Service Commission and Personnel Classification Board		$ 4,279.00
A. Personal Services	4,279.00	
TOTAL: Civil Service Commission and Personnel Classification Board		$ 4,279.00

HAWAIIAN HOMES COMMISSION

Hawaiian Homes Commission		$ 2,035.00
B. Other Current Expenses	2,035.00	
TOTAL: Hawaiian Homes Commission		$ 2,035.00

BOARD OF HOSPITALS AND SETTLEMENT

Kalaupapa Settlement		$ 62,764.00
A. Personal Services	3,650.00	
B. Other Current Expenses	59,114.00	
Kalihi Hospital		$ 18,034.00
B. Other Current Expenses	18,034.00	
TOTAL: Board of Hospitals and Settlement		$ 80,798.00

DEPARTMENT OF INSTITUTIONS

Territorial Hospital		$ 73,423.00
B. Other Current Expenses	73,423.00	
TOTAL: Department of Institutions		$ 73,423.00

QUASI-PUBLIC INSTITUTIONS		
Leahi Hospital		**$134,207.00**
F. Fixed Charges	134,207.00	
Kula Sanatorium		**$ 7,944.00**
F. Fixed Charges	7,944.00	
TOTAL: Quasi-Public Institutions		$142,151.00
TREASURY DEPARTMENT		
Treasurer's Office		**$ 1,894.00**
A. Personal Services	1,894.00	
Expenses Official Bonds		**2,500.00**
B. Other Current Expenses	2,500.00	
TOTAL: Treasury Department		$ 4,394.00
GRAND TOTAL OF TOTALS		**$307,080.00**

Section 2. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1947 shall be lapsed into the general fund of the Territory.

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 180, Act 137.**

PUBLIC IMPROVEMENTS: APPROPRIATIONS

Series F-208: ACT 206

An Act Making Appropriation Out of the General Revenues of the Territory of Hawaii for Public Improvements for the Biennial Period Ending June 30, 1949.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as shall be necessary to accomplish the purposes designated by the appropriations, are hereby appropriated for the biennial period beginning July 1, 1947 and ending June 30, 1949 out of moneys in the treasury received from general revenues and authorized to be expended under the direction and supervision of the superintendent of public works, for the several purposes specified as hereinafter set forth for construction, reconstruction and improvements, including the acquisition of property. Notwithstanding the provisions of any general or special law, no part of any appropriations shall be available for construction, reconstruction and improvements, including the acquisition of property, until a certificate of allocation shall have been approved by the director of the bureau of the budget and a copy of such certificate filed with the auditor of the Territory of Hawaii.

BOARD OF AGRICULTURE AND FORESTRY

Board of Administration			$ 4,500.00
E. Structures and permanent improvements to land		4,500.00	
For the extension of service yard facilities and parking areas at the board of agriculture and forestry garage to provide shelter for automotive equipment	4,500.00		
Division of Animal Industry			6,000.00
E. Structures and permanent improvements to land		6,000.00	
New animal house for breeding and rearing of laboratory animals	2,000.00		
Rebuilding present storage warehouse	500.00		
Complete isolation section to 15 kennels	3,500.00		
Total: Board of Agriculture and Forestry			$ 10,500.00

BOARD OF HEALTH

General Administration			$ 40,000.00
E. Structures and permanent improvements to land		40,000.00	
Purchase from the Federal government of the following: (1) building situate at the west corner of Lanakila Avenue and Kuakini Street extension, Kapalama, known as the Lanakila Health Center; and (2) building situate on the west side of Kapahulu Avenue known as the Kapahulu Health Center	40,000.00		
Total: Board of Health			$ 40,000.00

QUASI-PUBLIC INSTITUTIONS

Kula Sanatorium			**$ 23,000.00**
E. Structures and permanent improvements to land		23,000.00	
Laundry machines	8,000.00		
Water storage tank	15,000.00		
Samuel Mahelona Memorial Hospital			**38,000.00**
E. Structures and permanent improvements to land		38,000.00	
Building and equipment	38,000.00		
Total: Quasi-Public Institutions			$ 61,000.00

JUDICIAL DEPARTMENT

Second Circuit Court			**$ 10,000.00**
E. Structures and permanent improvements to land		10,000.00	
Addition to Detention Home	10,000.00		
Total: Judicial Department			$ 10,000.00

DEPARTMENT OF PUBLIC WORKS

Maintenance, Repairs, Additions and Improvements to Public Buildings, Grounds and Government Property			**$ 438,000.00**
E. Structures and permanent improvements to land		438,000.00	
Reconstruction of electrical systems in the Territorial Building, Judiciary Building, Board of Health Building, Library of Hawaii and Iolani Palace	50,000.00		
[Remodeling existing Board of Health Building and equipment for Supreme Court	110,000.00]	This item not approved. I.M.S.	
Reconstruction and repair of the roof of Iolani Palace	16,000.00		

(PUBLIC WORKS—Continued)

Reconstruction of the roof of the Library of Hawaii	80,000.00	
Acquisition of land and construction of explosive storage facilities on the Island of Oahu	50,000.00	
Rehabilitation of the Waikiki War Memorial Natatorium	100,000.00	
Remodeling existing Library and Tax Building, Island of Hawaii	32,000.00	
Total: Department of Public Works		$ 438,000.00
[Less item not approved		110,000.00]
		[$ 328,000.00]
GRAND TOTAL OF TOTALS		$ 559,500.00
[Less item not approved		110,000.00]
		[$ 449,500.00]

Section 2. There is hereby appropriated for the biennial period beginning July 1, 1947, and ending June 30, 1949, from the general revenues of the Territory not otherwise appropriated, (a) the sum of $200,000.00 for the acquisition, improvement and maintenance of the "Saddle Road" on the Island of Hawaii, which sum shall be expended upon warrants issued by the auditor of the Territory based upon vouchers approved by the territorial highway engineer, and (b) the sum of $10,000.00 for the entertainment of the governors of the various states upon their visit to the Territory, which sum shall be expended upon warrants issued by the auditor of the Territory based upon vouchers approved by the governor of the Territory.

Section 3. This Act shall take effect from and after July 1, 1947.

(Approved May 20, 1947.) **H.B. 220, Act 206,** except as to the item followed by the words "This item not approved" and titled "Remodeling existing Board of Health Building and equipment for Supreme Court."

LOAN FUND BONDS: APPROPRIATIONS

Series F-209: ACT 205

An Act Making Appropriations for Public Improvements and Providing for the Issuance of Public Improvement Bonds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. (a) The following sums are hereby appropriated for the following purposes out of any moneys hereafter received by the treasurer of the Territory of Hawaii for or on account of loan funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary:

TERRITORIAL IMPROVEMENTS

To be expended under the direction of the **Board of Harbor Commissioners:**			
1.	Fishing wharf on Kaneohe Bay, Oahu, land and acquisition or construction of structures		$ 50,000
2.	Boat Harbor at Kihei, Maui, land and facilities		85,000
To be expended under the direction of the **Department of Institutions:**			
3.	Territorial Hospital, new construction		348,000
4.	Kawailoa Training School for Girls, Concrete reservoir, 200,000 gallon capacity	45,000	
	One two-bedroom cottage for business manager	13,000	58,000
4a.	Structures, waterworks and improvements to land		500,000
5.	Waimano Home, New boiler house complete with equipment	60,000	
	New laundry building, complete with equipment	100,000	
	1 Central kitchen building, complete with equipment	121,200	
	1 Hospital, 100 beds, complete with equipment	300,000	
	New water supply system	100,000	681,200
6.	Waimanalo Training School for Younger Boys, costs of settling existing leases, surveys and new construction		299,500
To be expended under the direction of the **Department of Public Works:**			
[7.	Additions to detention home, Maui, structures, and improvements to land		10,000]
	Not approved.		
8.	Expansion of Honolulu vocational school, structures and improvements to land		180,000
9.	Completion of new Maui vocational school, structures and improvements to land		250,000
10.	Additions to Board of Agriculture and Forestry building,		

(TERRITORIAL IMPROVEMENTS—Continued)

	Honolulu, structures and improvements to land	68,000
11.	Honolulu Detention Home, Boys' dormitory, kitchen and dining room	106,000
12.	Improvements to existing buildings	288,000
13.	Office building or buildings for territorial departments, land, structures and improvements to land	2,660,000
14.	Tuberculosis Hospital, Honolulu, structures and improvements to land	2,800,000
	(This appropriation is subject to the unconditional conveyance by Leahi Hospital to the Territory of Hawaii of a suitable site, and shall not be expended unless said site is so conveyed. The commissioner of public lands is hereby authorized to accept said conveyance, and the board of health is hereby authorized to assume jurisdiction over the improvements for which this appropriation is made and the site thereof, and to enter into a revocable license agreement for the management thereof by Leahi Hospital, the true intent and meaning of the foregoing being that Leahi Hospital shall not acquire or have any vested right in the improvements so constructed or the site thereof.)	
15.	Tuberculosis Hospital, Hilo, structures and improvements to land	2,100,000
16.	Samuel Mahelona Memorial Hospital, structures and improvements to land	500,000
17.	Kapaa swamp filling project	175,000
18.	Extension of Waiakea Canal	75,000
19.	University of Hawaii, Chemistry building and Administration building	1,400,000

(b) The foregoing appropriations shall be deemed to include the preparation of necessary plans. In case the amount specified in any item of this section shall not be wholly required to complete the work on such item the unrequired balance may, after completion of said work or after it is definitely ascertained by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item, will be required to complete said work, be expended for the work specified in any of the other items for the same department, and any unrequired balance remaining after the completion of all of the items for any department may be transferred by the governor to supplement the appropriation for an item or items for another department.

Section 2. (a) The following sums are also hereby appropriated for the following purposes out of any moneys received by the treasurer of the Territory of Hawaii for or on account of loan

funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary:

CITY AND COUNTY OF HONOLULU

20.	Leilehua High School, structures, auditorium and improvements to land	$ 750,000
21.	Wahiawa Elementary School, structures and improvements to land	500,000
[22.	Waipahu High School, gymnasium and auditorium, and to the extent that funds may be available, classrooms, for structures and improvements to land Not approved.	275,000]
23.	Waialua Elementary School, acquisition of land, structures and improvements to land	300,000
24.	Kaimuki High School, structures and improvements to land	1,000,000
25.	Waianae Elementary School, acquisition of land, structures and improvements to land	40,000
26.	Robert Louis Stevenson School, structures and improvements to land	500,000
27.	Castle High School, structures and improvements to land	558,000
28.	Manoa School, acquisition of land, structures and improvements to land	300,000
[29.	Farrington High School, auditorium, structures and improvements to land Not approved.	400,000]
30.	Nanakapono School, Teachers' cottage, structures and improvements to land	60,000

COUNTY OF MAUI

31.	Central Maui Memorial Hospital, acquisition of land, structures and improvements to land	$ 1,500,000
32.	Sewers, Lahaina and Paia, both or either	500,000

COUNTY OF HAWAII

33.	Laupahoehoe School, structures and improvements to land, including moving and relocating present buildings at new site	$ 400,000
[34.	Construction of water system from Reservoir No. 3 in Puukapu, South Kohala—thru Ahualoa—Kalopa—Kaapahu and Paauilo Homesteads—Hamakua, Hawaii Not approved.	300,000]
[35.	Waiakea Homestead, Kaumana water system—Hilo City Not approved.	200,000]
36.	Construction Paauilo School Buildings	50,000
37.	Waiakea-kai School—construction and additional classrooms —Hilo City	50,000

(COUNTY OF HAWAII—Continued)

38.	Construction gymnasium at Puueo—City of Hilo	50,000
[39.	Construction of gymnasium at Kapiolani School, City of Hilo	50,000]
	Not approved.	
40.	Construction of Waipio Road	167,000
41.	Construction of Kohala High School—Honomakau, North Kohala	300,000
[42.	Construction of water systems—Kona Districts	
	(a) Holualoa—Kailua	100,000]
	Not approved.	
	(b) Kainaliu—Kealakekua—Capt. Cook—Keei—Napoopoo	200,000]
	Not approved.	
	(c) Kealia—Hookena	100,000]
	Not approved.	
43.	Construction of roads—South Kona	
	(a) Milolii Road—Hookena Road—Honaunau Road	75,000
44.	Libraries—Kona Districts	
	(a) Konawaena High School	15,000
	(b) Holualoa School	10,000
[45.	To make a study and survey of Volcano Water System—from Kulani Cone to Volcano District—Puna	50,000]
	Not approved.	
[46.	Construction of gymnasium at Olaa—Puna	50,000]
	Not approved.	
47.	Construction of Municipal Golf Course at Hilo	65,000

COUNTY OF KAUAI

48.	Kauai War Memorial Auditorium at Lihue, structures and improvements to land	$ 200,000
49.	Kapaa High School gymnasium, acquisition of land, structures and improvements to land	75,000
50.	Waimea High School gymnasium, acquisition of land, structures and improvements to land	75,000
[51.	New school buildings, acquisition of land, structures and improvements to land	200,000]
	Not approved.	
[52.	Waterworks, installations, extensions and improvements	150,000]
	Not approved.	
53.	Waimea Heights Access Road	100,000
[54.	Realigning and widening Puukapele Road	150,000]
	Not approved.	
[55.	New roads and bridges, Hanalei District	150,000]
	Not approved.	
[56.	New roads and bridges, County of Kauai	150,000]
	Not approved.	

(b) The foregoing appropriations shall be deemed to include the preparation of necessary plans. The sums appropriated by this section, being items 20 to 56, both inclusive, shall be expended by the boards of supervisors of the respective counties in accordance with plans and specifications prepared by the respective engineers of such counties.

(c) In case the amount specified in any item of this section shall not be wholly required to complete the work on such item the unrequired balance may, after completion of said work or after it is definitely found by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item, will be required to complete said work, be expended for the work specified in any of the other items for the same county, and any unrequired balance remaining after the completion of all the items for such county listed in this section shall be transferred to the permanent improvement fund of the same county.

(d) That no moneys shall be expended under any of said items 20 to 56 until the methods, materials, plans and specifications proposed to be used for the construction or reconstruction of the improvement authorized by said item shall first have been passed upon and approved by the superintendent of public works; and before giving such approval the superintendent of public works shall inspect the locality in which the work is proposed to be done and shall familiarize himself with the local conditions affecting said proposed work.

(e) That all school buildings erected under any of the items in this section and all lands purchased for school purposes under any of the items specified in this section shall be subject to the approval of the department of public instruction as to the locality of the lands purchased and as to the size, arrangement, dimensions, lighting of the rooms and sanitary condition as to the buildings erected.

Section 3. Each county shall pay to the Territory on the interest dates of serial bonds issued by the Territory under this Act, the proceeds of which shall have been or are to be expended for such of the projects referred to in items 20 to 56 as are to be undertaken in such county, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year the amount of the principal of such serial bonds maturing the following year.

The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the treasurer of any county such amounts when due as are

required by this section to be paid by such county, and proper receipts shall thereupon be exchanged between the treasurers of the Territory and such county.

Section 4. Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of the Congress of the United States to be expended in connection with or for the construction of any of the projects or works authorized by any item of this Act (whether or not such item specifically provides for expenditure thereof in connection with federal funds), the proper territorial or county officers, or both, charged with the expenditure of the funds appropriated by such item, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer the funds appropriated by this Act to such other officer, officers or agency of the Territory or county (who are hereby given power to expend the same pursuant to this Act) for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such acts of said Congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such projects or works.

Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the Territory for the construction, in whole or in part, of any public works project authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid out of the proceeds of such bonds if sold.

Section 5. This Act shall take effect upon its approval.

(Approved May 20, 1947.) **H.B. 1, Act 205,** except as to Items 7, 22, 29, 34, 35, 39, 42 (a), 42 (b), 42 (c), 45, 46, 51, 52, 54, 55 and 56 which are not approved.

See Public 190, 80th Congress, 1st session, c. 250.

Series F-210: ACT 73

An Act Relating to Federal Aid Highways, Making an Appropriation and Providing for the Issuance of Bonds Therefor, and Amending Section 4964 of the Revised Laws of Hawaii 1945 So As to Provide for the Acceptance of Donations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five million eight hundred fifty thousand dollars ($5,850,000.00) is hereby appropriated for the purpose hereinafter stated, out of any moneys hereafter received by the treasurer of the Territory for or on account of loan funds, and bonds may be issued as provided by law from time to time (whenever the same may legally be issued hereafter, whether under existing law or under authorization by the Congress of the United States hereafter enacted) to the extent necessary to yield the amount herein appropriated or so much thereof as may be found necessary.

The sum hereby appropriated shall be expendable by the territorial highway department for the design, construction, reconstruction of, and for engineering and acquisition of rights of way for, highways in the county of Hawaii upon which federal moneys are expendable or have been expended, pursuant to the provisions of chapter 89 of the Revised Laws of Hawaii 1945, as heretofore or hereafter amended, and the federal highway act and legislation supplementary thereto.

The payment of the principal and interest of the bonds hereby authorized to be issued shall constitute a paramount charge upon the consolidated revenue of the Territory, as provided by law.

Section 2. Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the Territory for any projects authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of such bonds if sold.

Section 3. The treasurer of the Territory, with the approval of the governor, may, if it be deemed advisable so to do in order to expedite the projects authorized under this Act, make advancements out of the general fund of the Territory therefor and reimburse said general fund thereafter immediately upon receipt of the proceeds of any bonds issued and sold under this Act.

Section 4. **Section 4964** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new sentence to read as follows:

"The territorial highway engineer is empowered, on behalf of the Territory, with the approval of the governor, to accept donations of land, money or other property for deposit in the territorial highway fund or for any purpose of this chapter, upon such terms and conditions as are acceptable to him, and not inconsistent with the proper discharge of his duties and functions or prejudicial to the obtaining of the federal-aid funds payable to the Territory without such donations."

Section 5. This Act shall take effect upon its approval.

(Approved May 12, 1947.) **S.B. 155, Act 73.**

Note: As so amended, § 4964 reads:

Sec. 4964. Engineer's powers. In addition to the powers possessed by the superintendent of public works as such, the territorial highway engineer shall have any and all further powers which may be necessary for the full and effective performance and discharge of the duties imposed upon him by this chapter or which may be necessary fully and completely to carry out and effectuate the purposes of this chapter. The territorial highway engineer is empowered, on behalf of the Territory, with the approval of the governor, to accept donations of land, money or other property for deposit in the territorial highway fund or for any purpose of this chapter, upon such terms and conditions as are acceptable to him, and not inconsistent with the proper discharge of his duties and functions or prejudicial to the obtaining of the federal aid funds payable to the Territory without such donations. [L. 1929, c. 53, pt. of s. 1; R. L. 1935, s. 1713; R. L. 1945, s. 4964; am. L. 1947, c. 73, s. 4.]

HARBOR BOARD AND HONOLULU REVENUE BONDS.

Series F-211: ACT 95

An Act Relating to Territorial and County Public Improvements and the Financing Thereof by the Issuance of Revenue Bonds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Authorization.** There are hereby authorized to be issued by the board of harbor commissioners, as provided by part IV of chapter 115 of the Revised Laws of Hawaii 1945 (enacted by the twenty-fourth legislature), revenue bonds payable solely from the revenues derived from the public undertakings hereinafter designated, for the purposes hereinafter set forth, for which purposes the proceeds of sale of said bonds are hereby appropriated, that is:

HARBOR AND WATERFRONT IMPROVEMENTS

(To be expended under the direction of the board of harbor commissioners)

1. For new overseas freight terminal to be located on a site between the waikiki boundary of the present pier 2 and the ewa boundary of the present pier 7, Honolulu Harbor, including plans, land acquisition, improvements to land, and other necessary expenses..... $5,500,000
2. For overseas terminal, Kawaihae Harbor, Hawaii, including plans, land acquisition, improvements to land and other necessary expenses 1,000,000
3. For extension of Nawiliwili Wharf Shed, Nawiliwili, Kauai 150,000

Provided, that no expenditures, except for surveys and design work, are to be made for the Kawaihae project unless and until the United States Engineer Department approves the project and agrees to cooperate, through the development of Kawaihae Harbor. The certificate of the governor that such approval and agreement have been obtained shall be final and conclusive for all purposes.

The public undertaking the revenues of which are hereby charged with the payment of the principal and interest of said bonds is hereby designated as follows, to wit: all of the harbor

and waterfront improvements and other properties under the jurisdiction, control, and management of the board of harbor commissioners, except such as are principally used for recreation or the landing of fish but such exception shall not apply to the properties under the jurisdiction, control, and management of said board at Kewalo Basin, ewa of Ala Moana Park, Honolulu.

Section 2. The board of harbor commissioners, from the harbor board reserve fund, is hereby authorized to pay the costs of the issuance of the bonds authorized by this Act, and other preliminary expenses, including plans, surveys, and appraisals, for the harbor and waterfront improvements authorized by this Act.

In case the amount specified in any item of section 1 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said work, or after it is definitely found that not more than a specified amount, less than the whole amount, will be required to complete said work, be expended for the work specified in another item. By resolution of the board of harbor commissioners, funds from the harbor board reserve fund may be used to supplement funds for any item.

Section 3. There are hereby authorized to be issued by the city and county of Honolulu, as provided by chapter 118 of the Revised Laws of Hawaii 1945, as amended by Act 33 of the Session Laws of Hawaii 1945, by Act 10 of the Session Laws of Hawaii 1947, and by this Act, revenue bonds payable solely from the revenues derived from the public undertaking hereinafter designated, for the purposes hereinafter set forth, for which purposes the proceeds of sale of said bonds are hereby appropriated, that is:

CITY AND COUNTY OF HONOLULU

(To be expended under the direction of the board of supervisors of the city and county of Honolulu)

For the acquisition of rights of way for and construction of a tunnel through the Koolau mountain range at the head of Kalihi Valley between the leeward and the windward sides of the island of Oahu, to be suitable for safe travel by motorists and to be improved as a toll highway sufficient to provide for such traffic, including approaches and appurtenances thereto and all necessary expenses thereof (hereinafter called the "Koolau Tunnel Project") $9,400,000

The public undertaking the revenues of which are hereby charged with the payment of the principal and interest of said bonds is hereby designated as the aforesaid Koolau Tunnel

Project, which shall be under the control and management of the city and county of Honolulu, which shall operate and maintain the same, shall charge and collect said revenues, and shall take all other steps necessary or proper for such undertaking, as provided by law. **Provided,** that construction of the Koolau Tunnel Project shall not be commenced, except for preliminary planning and other necessary preliminary expenses, until the sale of bonds is assured, in sufficient amounts to enable said project to be completed.

Section 4. The city and county of Honolulu is hereby authorized to advance the costs of the issuance of the bonds authorized by section 3 of this Act, and other preliminary expenses, including plans, surveys and appraisals, or in its discretion to appropriate the amount required for such costs and expenses from its general fund. The city and county of Honolulu is further authorized to make advances to meet bond requirements for principal and interest for the Koolau Tunnel Project until the tolls collected therefrom are sufficient to meet the current bond requirements, operations and maintenance, whereupon and in any event within five years from the date of completion of the project, the general fund of the city and county of Honolulu shall be reimbursed for such advances.

Section 5. **Section 6081** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end of the second paragraph thereof the following sentence:

"The term 'undertaking' shall also mean the Koolau Tunnel Project."

Note: § 6081 re-written, as amended, in the note to Act 74, (A-97), ante.

Section 6. **Authority to secure federal funds.**

(a) Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of said Congress to be expended in connection with or for the construction of any of the projects or works authorized by this Act (whether or not such item specifically provides for expenditure thereof in connection with federal funds), the proper territorial or city and county officer, charged with the expenditure of the funds appropriated by such item, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer the funds appropriated by this Act to such other officer, officers or agency (who are hereby given power to expend the same pursuant to this Act) for expenditure thereof, and do and perform such other acts and things as may be necessary, or be required by such acts of said Congress or any regulations or requirements of the

federal government, as a condition to securing such federal funds for such projects or works.

(b) Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the Territory or the city and county of Honolulu for the construction, in whole or in part, of any public works project authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of such bonds if sold.

Section 7. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 195, Act 95.**

Series F-212: ACT 66

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue Bonds in the Sum of Two Million Three Hundred Thousand Dollars ($2,300,000.00), for Acquisition, Improvement and Beautification of Parks and Playgrounds in the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby empowered and authorized to issue general obligation bonds pursuant to and in accordance with section 55 of the Organic Act, Territory of Hawaii and chapter 117 of the Revised Laws of Hawaii 1945, in the sum of two million three hundred thousand dollars ($2,300,000.00). Said issue to commence in the year 1947.

Section 2. The moneys realized from such bond issue shall be expended for the acquisition, improvement and beautification of parks and playgrounds in the City and County of Honolulu.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1947.) **H.B. 768, Act 66.**

Series F-213: ACT 68

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue Bonds in the Sum of One Million Five Hundred Thousand Dollars ($1,500,000.00) for the Construction of Sewer System in the City of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby empowered and authorized to issue general obligation bonds pursuant to and in accordance with section 55 of the Organic Act, Territory of Hawaii, and chapter 117 of the Revised Laws of Hawaii 1945, in the sum of one million five hundred thousand dollars ($1,500,000.00). Said issue to commence in the year 1948.

Section 2. The moneys realized from such bond issue shall be expended for the construction of an interceptor sewer in the district of Kaimuki from Palolo Avenue to 14th Avenue also the Kaimuki trunk sewer east side and the Kaimuki trunk sewer west side, including a collecting system in the said area, and any other cost in connection therewith.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1947.) **S.B. 345, Act 68.**

Series F-214: ACT 69

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue Bonds in the Sum of Five Million Dollars ($5,000,000.00) for Construction of the Sewer System in the City of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby empowered and authorized to issue bonds in the sum of five million dollars ($5,000,000.00), **provided,** however, that the limitations and requirements in the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945, as to the total bond indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act.

Section 2. The moneys realized from such bond issue shall be expended for the construction of the sewers in the city of Honolulu.

Section 3. This Act shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this Act and authorizing such bond issue, notwithstanding the limitations of section 55 of the Organic Act of the Territory of Hawaii or any other law to the contrary.

(Approved May 9, 1947.) **S.B. 346, Act 69.**

Note: Covered by Public 200, 80th Congress, 1st session, c. 265.

AIRPORT APPROPRIATIONS.

Series F-215: ACT 23

An Act Relating to Territorial Airports and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii the sum of $532,500.00, or so much thereof as may be necessary, for airport improvements for the airports and for the purposes and in the amounts designated in the schedule hereinafter set forth, to-wit:

1. Lihue Airport:	
Runway, buildings, improvements and roads	$270,000.00
2. Kamuela Airport	60,000.00
3. Kalaupapa Airport:	
Paving and improvements	40,000.00
4. Kailua Airport:	
Paving and improvements	40,000.00
5. Lanai Airport:	
Paving and improvements	105,000.00
6. Port Allen, Hanapepe:	
Paving and improvements	17,500.00

Section 2. The improvements hereinabove provided for shall be under the supervision of the superintendent of public works, and the sum herein appropriated shall be expended upon warrants drawn by the territorial auditor upon the treasurer, based upon vouchers signed by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1947.) **S.B. 308, Act 23.**

Note: See also L. 1947, c. 32 (A-75), pt. of s. 1, (s. 4915.07, 4915.09), and s. 7, pp. 171, 172-3, 181-2, ante.

HAWAIIAN HOMES: APPROPRIATIONS.

Series F-216: ACT 215

An Act Relating to Hawaiian Home Lands, Making Appropriations for Improvements Thereof, and Requiring the Board of Supervisors of the City and County of Honolulu, the Board of Water Supply and the Hawaiian Homes Commission to Contribute to Certain Costs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of $854,271.00 is hereby appropriated from the general revenues of the Territory of Hawaii for expenditure by the Hawaiian Homes Commission for the purposes and in the amounts scheduled in this section and as more particularly set forth in subsequent sections of this Act:

1. Construction of public improvements for the Kalawahine-Kewalo, Waimanalo 2nd Series, and Waimanalo 3rd Series areas of the Hawaiian Homes Commission homesteads on the island of Oahu $241,271.00
2. Development of combined agricultural residence lots on Hawaiian Homes land at Anahola, island of Kauai $263,000.00
3. Development of lands for homesteads on Hawaiian Homes land on the island of Hawaii $350,000.00

Section 2. The board of supervisors of the **city and county of Honolulu** is authorized and directed to appropriate the sum of two hundred eight thousand seven hundred seventy-one dollars ($208,771.00); the **board of water supply** of the city and county of Honolulu is hereby authorized and directed to make available the sum of thirty-two thousand five hundred dollars ($32,500.00); and the **Hawaiian Homes Commission** is hereby authorized and directed to make available the sum of two hundred forty-one thousand two hundred seventy-one dollars ($241,271.00) from any funds under its control for the construction of public improvements for the Kalawahine-Kewalo Homesteads, the Waimanalo 2nd Series Homesteads, and the Waimanalo 3rd Series Homesteads on the island of Oahu, **provided** that the city and county of Honolulu and the board of water supply may include as part of their contributions, labor, supervisory and engineering services of their own staffs, and materials or supplies from their own stocks at cost.

Section 3. In addition to the water mains and appurtenances for the Waimanalo Homesteads, the design and construction of roads and sewers shall be under the direction of the city and

county of Honolulu. The design and construction of the water mains and appurtenances for the Kalawahine-Kewalo Homesteads shall be by or under the direction of the board of water supply of the city and county of Honolulu.

Section 4. The city and county of Honolulu is authorized to expend from any moneys realized from bonds issued an amount necessary to construct the sewers and to expend the usual pro rata cost paid by the government under sewer improvement assessments in the development of a sewer system for lands under the control of the Hawaiian Homes Commission in Kalawahine-Kewalo, without going through the process necessary to establish a sewer improvement district.

Section 5. The segregation of costs shall be as follows:

Roads—1/3 each to city and county, Territory of Hawaii, and Hawaiian Homes Commission.

Water—1/3 each to Territory of Hawaii, the Hawaiian Homes Commission, with the city and county of Honolulu sharing $11,734 and the board of water supply $32,500 of the last 1/3; with the understanding that the latter two agencies will provide engineering.

Sewers—1/3 each to city and county, Territory of Hawaii, and Hawaiian Homes Commission.

	City and County	Board of Water Supply	Territory of Hawaii	Haw'n Homes Commission	Totals
Roads	$161,654.00	.....	$161,654.00	$161,655.00	$484,963.00
Water	11,734.00	$32,500.00	44,233.00	44,233.00	132,700.00
Sewers	35,383.00	.....	35,384.00	35,383.00	106,150.00
Totals	$208,771.00	$32,500.00	$241,271.00	$241,271.00	$723,813.00

For roads and sewers, the segregation of funds contributed by the Territory, city and county of Honolulu, and the Hawaiian Homes Commission may be altered to conform to finished plans or estimates if necessary.

Any deficiency in funds necessary to complete the work shall be appropriated by the city and county of Honolulu.

Section 6. In the event that assistance of any sort be supplied by the public works adminstration or some like federal agency, then the city and county and the Hawaiian Homes Commission shall furnish materials and equipment equal to the value of such assistance upon the work designated in section 5 of this Act, for the purpose of extending the water, sewer or road services for the Kalawahine-Kewalo and Waimanalo areas of the Hawaiian Homes Commission Homesteads on Oahu, beyond those contemplated in section 5 of this Act.

Section 7. The sum appropriated by Section 1 hereof for the development of Hawaiian Homes land at Anahola, Kauai, shall be used for the construction of roads, and for all other expenses

incidental to construction, survey, landscaping and engineering in connection with the development of combined agricultural residence lots by the Hawaiian Homes Commission, of approximately 401.423 acres of the Anahola lands on Kauai now under General Lease No. 2724. Said sum shall be set aside in the treasury of the Territory in a special fund and shall become available only upon withdrawal of said lands from said lease.

Section 8. The sum appropriated by Section 1 hereof for the development of Hawaiian Homes lands on the island of Hawaii may be used for the construction of roads, the development and installation of water mains and sewage systems, and, generally, for all purposes germane to the development of such lands for such purpose.

Section 9. This Act shall take effect upon approval.

(Approved May 22, 1947.) **H.B. 590, Act 215.**

HAWAII STATEHOOD: APPROPRIATIONS.

Series F-217: ACT 115

An Act Relating to Statehood: Creating a Statehood Commission; Repealing Chapter 314 of the Revised Laws of Hawaii 1945 Relating to the Equal Rights Commission; Creating a Holdover Committee of the Legislature to Advance Statehood for Hawaii; and Making an Appropriation for the Advancement of the Cause of Statehood.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a commission to be known as the **"Hawaii Statehood Commission"**, which shall consist of eight members, no more than four of whom shall be of the same political party, to be appointed and be removable by the governor in the manner provided by the first paragraph of section 80 of the Organic Act.

One of the members shall be a resident of the county of Hawaii, one shall be a resident of the county of Maui, one shall be a resident of the county of Kauai, one shall be a resident of the city and county of Honolulu, and four shall be members at large.

Two of the members shall be appointed for terms to expire January 1, 1948, two for terms to expire January 1, 1949, two for terms to expire January 1, 1950 and two for terms to expire January 1, 1951; thereafter every appointment shall be for a term of four years commencing from the date of expiration of the preceding term. Any vacancy occurring before the expira-

tion of a term shall be filled for the remainder of the unexpired term. All members shall be individuals who have been known supporters of statehood for Hawaii.

The commission shall establish regular meetings. Other meetings shall be held at the call of the chairman or four members of the commission.

Section 2. It shall be the duty of said commission:

1. Actively to support and press the movement for statehood for Hawaii; to represent the Territory of Hawaii in connection with federal legislation regarding statehood;

2. To assemble, compile, and in its discretion, publish information or data intended to: (a) support the movement for admission of the Territory to statehood; (b) until such admission is granted, advocate and support the rights and claims of the Territory and its inhabitants to treatment or usage the same as, or equal to, that received by the several states of the United States from the federal government; (c) oppose and attempt to defeat or prevent federal and state legislation discriminatory against the Territory and its inhabitants; and (d) assist the legislature in obtaining such amendments to the Organic Act or any other acts of Congress as are duly requested by the legislature;

3. Vigilantly to protect the Territory and its inhabitants against unequal, unjust or discriminatory action, treatment or legislation by the federal government or state governments, including their political subdivisions;

4. To correct, prevent, or refute such misinformation or false statements regarding the Territory and its inhabitants as may be disseminated, broadcast or published in the United States or elsewhere;

5. To oppose or prevent any discrimination that may arise in the United States or elsewhere against American citizens of the Territory of Hawaii;

6. To appear, by all or such of its members, or by such members of its staff or both, as are designated by the commission or by the chairman through authority granted by the commission, or by such members of any holdover committee as may be designated by such committee and requested by the commission or the chairman thereof to appear before Congress or any member or committee thereof or before any bureau or department or officer of the federal government in regard to duty (1) of this section or upon request of the governor, the delegate to Congress or the legislature in regard to any legislation affecting the Territory;

7. To conduct investigations, at the direction either of the governor or of the legislature, concerning unequal or unjust treatment or usage of the Territory or its inhabitants, the

sources or reasons for misinformation or false statements regarding the Territory or its inhabitants, or discrimination against the Territory or the American citizens of the Territory;

8. To appoint an executive secretary and such assistants as it deems necessary for the effectuation of its purposes at such salaries as may be fixed for such positions under any classification system operating upon territorial employees, and to contract for services which said commission may deem necessary or advisable to better effectuate its powers and duties on such terms and conditions and for such compensation as the said commission may see fit; to establish offices in Honolulu, Hawaii, and in Washington, D. C., and to staff the same;

9. To assist and cooperate with any bona fide citizens' organization formed for the purpose of accomplishing any of the objects embodied in the duties of this commission or its executive secretary;

10. To conduct national or sectional advertising and publicity campaigns in its discretion;

11. To perform such other duties as the commission may, in its discretion, believe necessary or advisable in the promotion of the interest and welfare of the Territory and the inhabitants thereof;

12. To prepare a biennial report and submit the same to the legislature at its regular sessions.

Section 3. There is hereby created a holdover committee composed of six members of the Senate, no more than three of whom shall be of the same political party, and six members of the House of Representatives, no more than three of whom shall be of the same political party, who shall be appointed respectively by the President of the Senate and the Speaker of the House of Representatives and shall serve until the first day of the following session of the legislature or until the expiration of their terms as members of the Senate and House of Representatives in the event that such terms expire prior to the opening day of the next session of the legislature. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses.

Section 4. Said holdover committee shall meet, cooperate and advise with the statehood commission and shall appear through such of its members as it shall designate before Congress or any member or committee thereof or before any bureau or department or officer of the federal government, actively to support and press the movement for statehood for Hawaii or in connection with federal legislation regarding statehood.

Section 5. Chapter 314 of the Revised Laws of Hawaii 1945 is hereby repealed.

All property of every kind and all records in the custody and use of the Hawaii Equal Rights Commission at the time of the enactment of this Act are hereby transferred to the Hawaii Statehood Commission which shall have the power to complete any unfinished business and contracts of said Hawaii Equal Rights Commission, and all employees of the Hawaii Equal Rights Commission forthwith shall be transferred to the employment of the Hawaii Statehood Commission.

Section 6. There is hereby appropriated from the general revenues of the Territory of Hawaii the sum of $200,000.00 for the purpose of this Act. Said sum shall be expended upon warrants on the treasurer issued by the auditor, based upon vouchers signed by the chairman of the statehood commission.

Of the sum herein appropriated the commission shall allocate not less than $1,000 per month to the Washington office of the commission as an entertainment fund to be expended by the officer or employee in charge of that office, who shall make a monthly report of the expenditure of said money to the commission but without requirement that he support such expenditure by vouchers. The term "entertainment fund" as used herein shall be broadly construed to the end that the purposes of this Act may be fully served.

Any expenses of the holdover committee incurred by any appearance under the provisions of section 4, or incurred at the request of the commission or its chairman shall be paid from the appropriation herein provided. The expenses of any commissioner, or any member of the staff of the commission or any member of the holdover committee while traveling abroad on official business shall not be limited by the provisions of section 455 of the Revised Laws of Hawaii 1945 or any other general statute but shall be as allowed by the commission or the holdover committee, as the case may be, and such expenses need not be supported by vouchers.

Any allotment made after April 15, 1947, out of the governor's contingent fund created by Act 272 of the Session Laws of Hawaii 1945, for the payment of expenses of the Hawaii Equal Rights Commission shall be reimbursed to said contingent fund from the appropriation made by this section.

Section 7. If any portion of this Act or the application thereof to any person or circumstance shall be held to be unconstitutional or invalid, the remainder of this Act or the application of such portion to other persons and circumstances shall not be affected.

Section 8. This Act shall take effect upon its approval, except as to section 5, which shall take effect on July 1, 1947.

(Approved May 15, 1947.) **H.B. 134, Act 115.**

KAMEHAMEHA DAY: APPROPRIATIONS.

Series F-218: ACT 239

An Act Appropriating Twenty-five Thousand Dollars for Expenditure During the Years 1947 and 1948 by the Kamehameha Day Celebration Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, the sum of twenty-five thousand dollars ($25,000.00), which shall be used to defray the expenses of Kamehameha Day celebration, the said amount to be allotted in the following manner:

(1) For Oahu	$14,000.00
(2) For Hawaii (excluding Kona and Kohala)	2,500.00
(3) For Kona	1,250.00
(4) For Kohala	1,250.00
(5) For Maui	2,500.00
(6) For Molokai and Lanai	1,000.00
(7) For Kauai	2,500.00

Section 2. The amount herein appropriated shall cover all expenditures of Kamehameha Day celebrations of June 11, 1947 and 1948, by the Kamehameha Day Celebration Commission in the manner and under the provisions established by section 1 of Act 227 of the Session Laws of Hawaii 1939.

Section 3. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 379, Act 239.**

LEGISLATURE: APPROPRIATION FOR.

Series F-219: ACT 2

An Act to Appropriate Money for the Expenses of the Legislature of the Territory of Hawaii and of Any Holdover Committees Thereof for the Periods Herein Specified and Providing for Reimbursement of the Governor's Contingent Fund for Any Such Expenses Paid Therefrom and for the Audit of the Accounts of the Senate and House of Representatives.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of one hundred fifty thousand dollars ($150,000.00), or so much thereof as may be necessary, for the purpose of defraying the expenses of the Senate of the Twenty-Fourth

Legislature of the Territory of Hawaii for the period commencing February 19, 1947, and ending November 6, 1948. Any expenditures made out of the governor's contingent fund created by Act 272 of the Session Laws of Hawaii 1945 for the payment of any such expenses shall also be reimbursed to said contingent fund from the appropriation made by this section.

Section 2. Should there remain any balance of the aforesaid sum of one hundred fifty thousand dollars ($150,000.00) unexpended and not contracted for expenditure at the close of the regular session of 1947, such balance is hereby appropriated for the purpose of defraying the expenses incurred prior to the convening of any session of the Twenty-Fifth Legislature of the Territory of Hawaii by holdover committee or committees which said Senate is hereby authorized to appoint to act after the close of said regular session.

Section 3. There is hereby appropriated from the public treasury the sum of two hundred thousand dollars ($200,000.00), or so much thereof as may be necessary, for the purpose of defraying the expenses of the House of Representatives of the Twenty-Fourth Legislature of the Territory of Hawaii for the period commencing February 19, 1947, and ending November 6, 1948. Any expenditures made out of the governor's contingent fund created by Act 272 of the Session Laws of Hawaii 1945 for the payment of any such expenses shall also be reimbursed to said contingent fund from the appropriation made by this section.

Should there remain any balance of the aforesaid sum of two hundred thousand dollars ($200,000.00) unexpended and not contracted for expenditure at the close of the regular session of 1947, such balance is hereby appropriated for the purpose of defraying the expenses incurred prior to the convening of any session of the Twenty-Fifth Legislature of the Territory of Hawaii by any holdover committee or committees which said House is hereby authorized to appoint to act after the close of said regular session.

Section 4. The expenses of any member of the Legislature, while traveling abroad on official business of the Legislature, shall not be limited by the provisions of **section 455** of the Revised Laws of Hawaii 1945 or any other general statute. The expenses of such member shall be such as may be allowed by the Senate or by the House of Representatives respectively as to members of said Senate or of said House of Representatives.

Section 5. The territorial bank examiner shall, prior to the convening of the Twenty-Fifth Legislature, audit the accounts of the Senate and the House of Representatives of the Twenty-Fourth Session of the Legislature of the Territory of Hawaii.

Immediately upon the completion of the audit, a full report thereon shall be presented to the Senate and to the House of Representatives of the Twenty-Fifth Session of the Legislature of the Territory of Hawaii.

Section 6. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 7. This Act shall take effect upon its approval.

(Approved March 27, 1947.) **S.B. 1, Act 2.**

RETURN OF RELEASED PRISONERS.

Series F-220: ACT 184

An Act Appropriating Money for the Transportation of Certain Non-Citizens of the United States of America Who May Be Released From Oahu Prison to Their Native Lands.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five thousand dollars is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, to pay expense of transporting to their native lands any non-citizens of the United States of America who may be released from Oahu prison for return to their native lands. Any unexpended balance of the money appropriated by Act 26 of the Session Laws of Hawaii 1939, as amended by Act 74 of the Session Laws of Hawaii 1943, is hereby appropriated and shall be available for the return of such non-citizens to their native lands.

Section 2. All expenditures of money appropriated under this Act shall be upon warrants drawn by the auditor of the Territory upon vouchers approved by the director of institutions of the Territory.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **S.B. 361, Act 184.**

VETERAN AID: APPROPRIATIONS.

Series F-221: ACT 16

An Act to Aid Amputee Veterans and Making an Appropriation of Twenty-Five Thousand Dollars for Such Aid.

WHEREAS, the Federal Government has made provision for supplying amputee veterans with specially designed cars for their own use; and

WHEREAS, said government has limited the cost of such cars to $1600.00 per car per veteran; and

WHEREAS, such amount does not take into account the cost of transportation of said cars from the mainland where they are manufactured to the Territory of Hawaii where they are to be used; and

WHEREAS, by Federal regulation, no amputee veteran is permitted personally to assume the cost of such transportation; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of twenty-five thousand dollars is hereby appropriated out of the general revenues of the territory not otherwise appropriated for the purpose of bearing the cost of transportation to Hawaii of cars provided by the Federal Government for amputee veterans.

Section 2. The monies hereby appropriated shall be expended only on vouchers drawn by the auditor based on applications therefor approved by the Council of Veterans Affairs.

Section 3. This Act shall take effect on its approval.

(Approved April 25, 1947.) **H.B. 10, Act 16.**

Series F-222: ACT 65

An Act Making an Appropriation of $5,000.00 for the McKinley Veterans School and Providing for the Expenditure Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general funds of the Territory of Hawaii, not otherwise appropriated, the sum of five thousand dollars ($5,000.00) to be disbursed on warrants issued by the auditor of the Territory based on vouchers approved by the superintendent of public instruction of the Territory or his authorized representative, said sum to be known as the McKinley Veterans School Fund, for the purposes hereinafter set forth.

Section 2. The amount herein appropriated shall be used for salaries, supplies, equipment and maintenance of extra-curricular activities at the McKinley Veterans School at McKinley High School in Honolulu, city and county of Honolulu, Territory of Hawaii, and specifically, but without limitation upon the generality of the foregoing, for the development of a program of athletics, a student publication, field studies, inter-school contests of all kinds, and public relations.

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **S.B. 303, Act 65.**

[See § 1894 and § 13108.01-.09 (1945).]

WAR HISTORY: APPROPRIATION.

Series F-223: ACT 136

An Act to Provide for the Preparation, Publication and Distribution of a History of Hawaii's Part in the Second World War, a Memorial, and a Series of Monographs Relating Thereto, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of regents of the university of Hawaii shall have prepared and published in separate volumes, and shall have distributed in the manner customarily adopted for the distribution of university publications:

(a) A history of the Territory of Hawaii's part in the war just concluded between the United States of America, and Germany, Japan and Italy.

(b) A memorial containing the names, pictures and biographical accounts of persons born or domiciled in the Territory of Hawaii who died in the service of the United States during the war.

(c) A series of monographic studies of such aspects of Hawaii's part in the war as are believed by the board of regents to be important enough to warrant their being undertaken.

The board of regents may utilize all materials, documents, photographs, and other data relating to Hawaii's part in the war deposited with and preserved by the university of Hawaii under Joint Resolution No. 6 of 1943, and all other pertinent information made available to the board of regents from other sources.

Section 2. The sum of ten thousand ($10,000.00) dollars is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, and all funds received from the sale of any of the publications authorized in section 1 are hereby appropriated for the payment of all necessary expenses incurred by the board of regents of the university of Hawaii in carrying out the provisions of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **S.B. 157, Act 136.**

WELFARE, SIGHT CONSERVATION.

Series F-224: ACT 172

An Act Relating to Sight Conservation and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated for the biennum ending June 30, 1949 out of the public welfare fund created by **section 5358** and also provided for by **section 4811** of the Revised Laws of Hawaii 1945, the sum of $237,777.00.

Section 2. Of the sum so appropriated there shall be expended, on vouchers approved by the director, bureau of sight conservation and work with the blind, $216,339.00 for any of the purposes of said bureau, including, but not limited to, personal services, other current expenses, equipment, motor vehicles, structures and permanent improvements to land, eye glass and medical care, shop revolving fund and handicraft and vending stand establishment fund, and $21,438.00 shall be used as matching funds with federal government appropriations for vocational rehabilitation of the visually handicapped.

Section 3. Nothing in this Act shall be construed to limit the applicability of **section 4878** of said Revised Laws or the funds available under said section.

Section 4. This Act shall take effect upon July 1, 1947.

(Approved May 19, 1947.) **S.B. 168, Act 172.**

MISCELLANEOUS APPROPRIATIONS, ETC.

Series F-225: ACT 17

An Act Authorizing the Payment of Pay Increments for Certain Periods for Employees of the County of Hawaii To Be Paid Out of Certain Appropriations Under Act 263, Session Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The county of Hawaii is hereby authorized to expend the sum of fifty-nine thousand three hundred ninety dollars and eighty-two cents ($59,390.82) out of the unexpended balance of the fund appropriated by Item 2 of paragraph (b) of subsection 3 of section 5 of Act 263 of the Session Laws of Hawaii 1945, and said sum is hereby appropriated out of said fund, for the purpose of paying increases in compensation under section 109 of the Revised Laws of Hawaii 1945 which have been or should have been (but for lack of an appropriation) granted to employees of the county of Hawaii for the period May 1, 1943, to August 31, 1945, both dates inclusive, which increases are hereby authorized, and the appropriate officials

are hereby directed to effect such payments. The term "employees of the county of Hawaii" shall include employees who were in service between May 1, 1943, and August 31, 1945, both dates inclusive.

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1947.) **H.B. 89, Act 17.**

Series F-226: ACT 227

An Act Relating to Appropriations for the County of Hawaii; Amending Act 230 of the Session Laws of Hawaii 1943, as Amended by Act 259 of the Session Laws of Hawaii 1945, and Providing for the Rehabilitation of Property Damaged by the Seismic Waves of April 1, 1946.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Item 13 of Section 1 of **Act 230,** Session Laws of Hawaii **1943,** as amended by Section 1 of **Act 259,** Session Laws of Hawaii **1945,** is hereby further amended to read as follows:

"13. Kaiwiki Homestead Road (South Hilo District) from Lot 17. Parcel 56 towards Lot 29 Grant 4264....$4,000.00"

Section 2. The sum of $128,750 heretofore allotted by executive order of the governor under date of September 25, 1946, in accordance with the provisions of chapter 324 of the Revised Laws of Hawaii 1945, as amended, from the appropriation made by **Act 275** of the Session Laws of Hawaii **1945,** for the purpose of rehabilitating certain parks and other public improvements damaged or destroyed by the seismic waves of April 1, 1946, and which said allotment was made by way of advancement to the county of Hawaii, is hereby appropriated to the county of Hawaii as an outright grant and the said sum shall not be required to be repaid by the county of Hawaii. The provisions of this section shall be deemed to be a reappropriation of a portion of the moneys appropriated by Act 275 of the Session Laws of Hawaii 1945, in the amount above set forth. The appropriation hereby made shall be expended by or under the direction of the board of supervisors of the county of Hawaii for the repair, restoration and reconstructon of park, water and sewer facilities damaged by the seismic waves of April 1, 1946, and to match federal funds available for such purposes, the board of supervisors of the county of Hawaii being hereby directed to take all steps and conform with all requirements necessary to obtain such federal funds.

Section 3. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 261, Act 227.**

Series F-227: ACT 102

An Act to Make an Appropriation for the Acquisition of Land at South Hilo, County of Hawaii, and the Use of Such Land for Recreational Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii not otherwise appropriated the sum of five thousand dollars or so much thereof as may be necessary, for the acquisition of five (5) acres of land contiguous to the Kaumana School, South Hilo, county of Hawaii, to be used both for school recreational purposes and for public park purposes as provided by the board of supervisors of the county of Hawaii.

Section 2. The commissioner of public lands is hereby directed to acquire said land by purchase or, if not feasible to do so, by condemnation in the manner provided by law.

Section 3. The money appropriated by this Act shall be expended upon a warrant drawn by the auditor upon a voucher signed by the commissioner of public lands.

Section 4. This Act shall take effect upon its approval.

(Approved May 14, 1947.) **H.B. 525, Act 102.**

Series F-228: ACT 45

An Act Amending Item 8 (b) of Section 1 of Act 230, Session Laws of Hawaii 1943, Relating to Appropriation for Ahualoa Homestead Road (Hamakua), County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Item 8 (b) of section 1 of Act 230, Session Laws of Hawaii 1943 is hereby amended to read as follows:

"8 (b). Ahualoa homestead road
(Hamakua) from Lot 1
Grant 5174 towards Lot 4
Grant 4718, 3rd series
tax map key 4-6-9- ..... $7,000.00".

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **S.B. 396, Act 45.**

Series F-229: ACT 138

An Act Relating to an Appropriation for the Honokaa Hospital, Amending Act 277, Session Laws of Hawaii 1945, and Providing for the Expenditure of Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of $200,000.00 appropriated by Act 277, Session Laws of Hawaii 1945, for item 5 in section 2 of said Act under the heading "County of Hawaii", is hereby reappropriated to the general fund of the county of Hawaii to be expended for the acquisition of land, construction of hospital and purchase of equipment, Honokaa, Hawaii.

Section 2. The board of supervisors of the county of Hawaii shall not be restricted in respect of the expenditure of said appropriation or of supplementary appropriations for the same purpose from the general fund of the county by the provisions of section 351 of the Revised Laws of Hawaii 1945.

Section 3. Act 277 of the Session Laws of Hawaii 1945 is hereby amended by repealing section 7 thereof, and by deleting from the second line of section 6 thereof the words "except the county of Hawaii".

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1947.) S.B. 394, Act 138.

Series F-230: ACT 223

An Act Appropriating the Sum of Five Hundred Sixty-Three and 85/100 Dollars ($563.85) to Reimburse the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 43 (Nuuanu Valley Sewerage System—Revised).

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general fund of the Territory of Hawaii the sum of five hundred sixty-three and 85/100 dollars ($563.85), or so much thereof as may be necessary to reimburse the city and county of Honolulu for payments to be made by it under the provisions of section 6704 of the Revised Laws of Hawaii 1945, for sewer improvements to be constructed within improvement district No. 43 (Nuuanu Valley sewerage system—revised).

Section 2. The said sum of five hundred sixty-three and 85/100 dollars ($563.85), or so much thereof as may be necessary to reimburse the city and county of Honolulu shall be paid to the treasurer of the city and county of Honolulu upon warrants drawn by the auditor of the Territory of Hawaii.

Section 3. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 508, Act 223.**

Series F-231: ACT 248

An Act Making an Appropriation for the Purpose of Exhuming and Reinterring Remains of Persons Now Buried on Certain Lands in Palolo Valley.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five thousand ($5,000) dollars is hereby appropriated from the general revenues of the Territory of Hawaii for the purpose of exhuming and reinterring at a suitable place the remains of deceased persons now buried on land in Palolo Valley, being the veteran's village tract and the adjacent territorial land.

Section 2. The expenditure of the sum hereby appropriated and the disinterment and reinterment of said bodies shall be under the supervision and control of the territorial board of health.

Section 3. This Act shall take effect upon its approval.

(Approved May 26, 1947.) **S.B. 504, Act 248.**

Series F-232: ACT 121

An Act Appropriating the Sum of Two Thousand One Hundred and Fifty-three Dollars and Thirty-four Cents ($2,153.34), From the General Fund of the Territory of Hawaii, to Reimburse the County of Kauai for Money Expended by It in the Operation of a Pump at Kapaa Swamp, District of Kawaihau, County of Kauai, During the Year 1944.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of two thousand one hundred and fifty-three dollars and thirty-four cents ($2,153.34), is hereby appropriated from the general fund of the Territory of Hawaii to reimburse the county of Kauai for money expended by it in the operation of a pump at Kapaa Swamp, district of Kawaihau, county of Kauai, during the year 1944.

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1947.) **H.B. 206, Act 121.**

Series F-233: ACT 219

An Act to Amend Act 72, Session Laws of Hawaii 1945, to Permit Purchase of Building Sites from Appropriations for Libraries.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. From the $75,000 appropriated for a Library at Waimea, Kauai, and the $50,000 appropriated for a Library at Waialua, Oahu, under Act 72, S. L. 1945, the superintendent of public works may, in addition to paying the construction cost of these libraries, use such part of such appropriations as are necessary for the purchase of satisfactory building sites.

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1947.) **S.B. 330, Act 219.**

Series F-234: ACT 52

An Act to Amend an Act Entitled "An Act Making Appropriations for the Several Counties and the Territorial Highway Department and Designating the Purposes Thereof", Approved May 24, 1945, Being Act 277 of the Session Laws of 1945, by Amending Item 79 of Section 2 Thereof, and Reappropriating the Sum for Such Item.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Item 79** of section **2** of the Act cited in the title hereof is hereby amended to read as follows:

"**79.** Construction of building to house Branch Library—Hanapepe, Kauai .....$29,000.00, and said sum of $29,000.00 is hereby reappropriated for item 79 as amended".

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1947.) **H.B. 572, Act 52.**

Series F-235: ACT 204

An Act Providing for the Construction of Certain Roads, Making Appropriations Therefor by Way of Advancement From the General Fund of the Territory to Be Repaid Out of the Proceeds of Sales of Public Lands, and Providing for the Use of Prison Labor and Fuel Tax Funds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of $100,000.00, or so much thereof as may be necessary, is hereby appropriated, by way of advancement, out of the territorial general fund, which sum shall be

reimbursed from the proceeds of sales of public lands in the county of Maui, for the construction of a road from Kanaio to Nuu, island of Maui.

Section 2. The location, grade and alignment of the road provided by section 1 shall conform to federal aid standards.

Section 3. The funds appropriated by section 1 shall be expended, upon warrants issued by the territorial auditor upon vouchers approved by the superintendent of public works, for equipment, material, supplies, and for the establishment of a prison camp.

Section 4. The superintendent of public works, in conjunction with the territorial department of institutions, shall construct the road provided by section 1. The superintendent of public works shall furnish engineering and general supervision, and the department of institutions shall furnish not less than thirty-five prisoners at all times together with guards and the maintenance of prisoners.

Section 5. The expenditure of fuel tax to cover the cost of engineering during construction of the road provided by section 1 is hereby authorized and shall be chargeable to the Maui county share of such tax.

Section 6. This Act shall take effect upon its approval.

(Approved May 20, 1947.) **S.B. 159, Act 204.**

Series F-236: ACT 63

An Act Appropriating $100,000.00 for Water Storage Facilities at the Head of the Hoolehua Water System, Molokai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of $100,000.00, or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory of Hawaii for the construction of water storage facilities at the head of the Hoolehua water system, Molokai.

Section 2. Said sum shall be expended upon warrants drawn by the territorial auditor upon the treasurer, based upon vouchers signed by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1947.) **S.B. 466, Act 63.**

Series F-237: ACT 80

An Act Appropriating Three Thousand Dollars for the Construction of a Plant Quarantine Station on Each of the Islands of Kauai, Maui and Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of three thousand dollars, of which one thousand dollars, or so much thereof as may be necessary, shall be expended for the construction of a plant quarantine station on each of the islands of Kauai, Maui and Hawaii, to be maintained by the board of commissioners of agriculture and forestry.

Section 2. The moneys hereby appropriated shall be expended upon warrants issued by the auditor of the Territory based upon vouchers approved by the board of commissioners of agriculture and forestry or its duly authorized officer acting pursuant to prior authorization or instructions of the board.

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **H.B. 118, Act 80.**

Series F-238: ACT 232

An Act to Amend Act 42 of the Session Laws of Hawaii 1939, Relating to an Appropriation by Way of Advancement to the Hawaii Housing Authority.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 42 (Series E-224) of the Session Laws of Hawaii 1939 is hereby amended in the following respects:

(a) By adding the following provision to section 1 thereof:

"**Provided,** however, that the Hawaii Housing Authority is hereby authorized to expend out of such of the foregoing items of appropriation as may be designated by it and approved by the director of the bureau of the budget, such amount, not in excess of $10,000.00 as may be required for the purpose of constructing a building to be used as a general office for the transaction of its business and for related activities, including use thereof by the Federal Public Housing Authority."

(b) By adding the following provision to section 4 thereof:

"**Provided,** however, that the Hawaii Housing Authority shall pay into the treasury of the Territory such amount monthly as shall be determined by the director of the bureau of the budget from time to time to constitute reasonable rental for the use of said building, if a building be constructed, and such payments shall be credited to the appropriations made by this Act until full reimbursement of the amount actually expended for such building. Said authority is also authorized to charge, receive, and use and expend moneys received as, rentals for the use of said building by others for such related activities."

Section 2. **Rule** number **137,** issued by the governor on May 14, 1945 under the authority of the Hawaii Defense Act, is hereby ratified and confirmed.

Section 3. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 449, Act 232.**

Series F-239: ACT 207

An Act to Authorize Litigation for the Determination of the Boundaries of Royal Patents Nos. 3437 and 3539, Kahanui 2 in the Island of Molokai and Claims for Rentals for the Same.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The land court of the Territory of Hawaii shall, subject to review by the supreme court as provided by law, have jurisdiction to hear and determine an application for land registration brought by any person claiming title or an interest in Land Patent Grant Nos. 3437 and 3539, against the Territory of Hawaii and others, and to determine therein the true boundaries of said land patents.

Section 2. If such proceeding has been or shall be brought in the land court not later than two years after this Act becomes effective, there may be included therein claims for rental for occupancy of any portion of the said lands by the Territory or its agencies, and the court may award judgment for such rentals, and determine the person or persons entitled thereto, if it be found that the Territory or its agencies has been occupying such portion without right, without regard to any limitation of time for commencing action against the Territory otherwise imposed by statute, but no interest shall be allowed on such claim up to the time of rendition of judgment.

Section 3. This Act shall take effect upon its approval.

(Approved May 20, 1947.) **S.B. 82, Act 207.**

Series F-240: ACT 216

An Act Authorizing Earned Vacation Credit to Certain Territorial Officers and Employees Who Lost Same as a Result of the Enactment of Act 329, S. L. Hawaii 1941 on May 21, 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. With the exception of school teachers and school principals employed in the public schools of the Territory, the instructional staff of the university of Hawaii and per diem employees, all officers and employees of the Territory, who, on their last respective service anniversary date prior to May 21, 1941, had earned or accumulated a total of nine weeks vacation in accordance with the laws then in effect, and who did not take any of said earned or accumulated vacation between their said respective service anniversary date and May 21, 1941, and who because of the change in the law on this latter date lost credit for vacation earned between their respective service anniversary date and May 21, 1941, shall be given, and are hereby granted vacation credit at the rate of one and one half (1½) working days per month for each month so worked.

Section 2. It shall be the duty of each officer or employee to file with his or her department head not later than ninety (90) days after this Act becomes law a claim for vacation credit allowed by section 1 of this Act, substantiating such claim with sufficient evidence to prove to said department head the validity of same. Immediately upon receipt of each claim the department head shall determine from the evidence submitted or from any other source the validity of the claim.

Section 3. A claim found to be valid shall be approved by the department head and the vacation earned as provided in section 1 of this Act shall be immediately credited to the officer's or employee's vacation allowance and shall be taken in accordance with any and all laws pertaining to same. Under no circumstances shall an officer or employee receive remuneration in lieu of vacation for the aforesaid credit.

Section 4. No person who was formerly an officer or employee of the Territory but who is no longer in the employ of same may submit a claim under the terms of this Act; **provided,** however, that any person who transferred to and is now in the employ of another government agency may submit a claim to his or her present department head as provided in section 2 of this Act and if said claim is approved may be given vacation credit therefor at the discretion of said department head.

Section 5. No claim shall be eligible under this Act after ninety (90) days from its enactment.

Section 6. This Act shall take effect upon approval.

(Approved May 22, 1947.) **H.B. 766, Act 216.**

Series F-241: ACT 226

An Act for the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims Against the Territory, and Providing Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The following respective sums of money are hereby appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the Territory, in the amounts set opposite their respective names:

Auyong, Albert A.
Outlawed warrant issued by territorial auditor for real property taxes illegally assessed ..... $ 25.77

Belcher, Glenn P.
Refund of real property taxes 114.37

Betts, Mrs. Iwa
Back salary due as an employee of the tax commissioner's office, second taxation division 183.88

[Boy Scouts of America
Refund of real property taxes ..... 49.57]
This item not approved.—I.M.S.

[Convalescent Nursing Home
Refund of real property taxes ..... 1,978.02]
This item not approved.—I.M.S.

Federal Government
Claim for damages arising out of a collision between a vehicle owned by the federal government and one owned by the territorial government 36.45

Federal Transportation Company, Limited
Refund of real property taxes 2,310.65

Garden Island Publishing Company, Limited
Publication notice of summons 26.25

Hawaiian Electric Company, Limited
Refund of public utility taxes 17,276.56

Kaumualii Chapter, Order of Kamehameha
Operating and maintaining Kuhio Memorial Park at Koloa, Kauai 86.61

Kwon Hou Young
Refund of real property taxes 88.60

Lino, Albert P.
Refund of real property taxes 76.16

Mizuha, Jack
Back pay due as an employee of the department of public instruction located on Kauai, Hanamaulu School 100.00

Modern Paint Shop
Repair work to private automobile damaged by car owned by territorial government 135.00

Okubo, Morito
Refund of real property taxes 59.43

O'Sullivan Silva, Mrs. Myra
Vacation pay earned while an employee of Waimano Home 64.17

Sproat, Mrs. Johanna
Vacation pay earned while an employee of Waimano Home 57.68

Friel, James L.
Reimbursement for repairs to private automobile damaged by car owned by territorial government 250.00

Young Loo See
Outlawed warrant issued by territorial auditor for real property taxes illegally assessed 36.62

[Worthington, William
Real property taxes paid a/c tidal wave damages ..... 23.70]
This item not approved.—I.M.S.

[Bourke, Temple
Real property taxes paid a/c tidal wave damages ..... 5.99]
This item not approved.—I.M.S.

[Strode, Pauline E.
Real property taxes paid a/c tidal wave damages ..... 21.93]
This item not approved.—I.M.S.

Tay, S. W.
Real property taxes for 1944 and 1945 erroneously assessed and paid 7.46

Choy, Paul
Poll Taxes erroneously assessed and paid 5.00

[Honpa Hongwanji Mission
Real property taxes for 1944 and 1945 erroneously assessed and paid ..... 662.84]
This item not approved.—I.M.S.

Mishima Fender Shop, K.
Repair bill for work on Plymouth car in accident with HNG truck 224.00

Kanuha, Mary Wilson
Real property taxes for year 1942 erroneously assessed and paid 4.47

Panee, John
Real property taxes for year 1943 erroneously assessed and paid 13.29

Rosa, Mrs. Rosalie
Real property taxes for years 1944 and 1945 erroneously assessed and paid 26.14

[Kitagawa & Co., I.
Certain real property taxes paid on land occupied by O.C.D. ..... 837.05]
This item not approved.—I.M.S.

Sniffen, Josephine K.
Real property taxes for year 1944 erroneously assessed and paid 14.78

Poopaa, Arthur
Personal property taxes for 1944 erroneously assessed and paid 3.93

Takahashi, Yei
Personal property taxes for 1942-3-4-5 erroneously assessed and paid 182.03

Spencer, Mary Ann
Personal property taxes for 1942 erroneously assessed and paid 8.18

Murata, Ichizo
Personal property taxes for 1942-3-4 erroneously assessed and paid 40.89

Naeolo, William P.
Poll taxes for 1943 erroneously assessed and paid 6.52

Corniel, Lillian M.
Poll taxes for 1943 erronoeusly assessed and paid 5.00

Soares, Mary
Loss by fire of beach cottage & effects due to neglect of board of hospitals & settlement 747.88

Cambra, John
Fence, potted ferns & plants, and vegetable gardens, destroyed by cattle owned by the board of hospitals & settlement 100.00

Division of Refuse Collection and Garbage Disposal of the City & County of Honolulu
Garbage removal for bureau of sight conservation & work with the blind, done without purchase order; an oversight 39.40

Rawley Ice Cream Company, Ltd.
For cost of repairs to its truck resulting from an accident involving a territorial department of public instruction vehicle 358.28

Section 2. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

Section 3. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the Territory into the general fund of the Territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

Section 4. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 138, Act 226,** except as to those items marked "This item not approved" and initialed by me, which items so marked are hereby disapproved.—I.M.S.

Series F-242: ACT 91

An Act for the Relief of Stephen Dawson.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of $285.00 for the relief of Stephen Dawson, being one-half of the value of his automobile destroyed at Kalaupapa.

Section 2. The sum herein appropriated shall be paid to Stephen Dawson upon warrant issued by the auditor of the Territory upon the territorial treasurer.

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1947.) **S.B. 112, Act 91.**

Series F-243: ACT 229

An Act Appropriating $168 for the Hartford Fire Insurance Company for Payment of its Subrogation Claim for Damage to the Automobile of Ellen Williams.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory not otherwise appropriated the sum of $168 for payment to **Hartford Fire Insurance Company** of its subrogation claim for damage to the automobile of Ellen Williams, which damage was caused by an employee of the Territory while operating an Oahu Prison truck in the course of his employment by the Territory.

Section 2. Said sum of $168 shall be paid by the auditor of the Territory by a warrant upon the treasurer of the Territory pursuant to section 1 of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 23, 1947.) **S.B. 440, Act 229.**

Series F-244: ACT 46

An Act Relating to the Reimbursement of Moses Akiona of the Amount of Excess Costs Incurred in Constructing Public School Teachers Cottages in Rural Oahu at Waialua and Kahuku Under Post-Active Hostilities and Rehabilitation Conditions, and Authorizing the Board of Supervisors of the City and County of Honolulu to Appropriate Sufficient Moneys Therefor.

WHEREAS, the city and county of Honolulu, in the year 1945, subsequent to the cessation of active hostilities against enemy nations, entered into a contract with Moses Akiona for the construction of public school teachers cottages in rural Oahu at Waialua and Kahuku for the contract price of $65,600.00; and

WHEREAS, conditions prevailing in the Territory after the cessation of active hostilities against enemy nations and during rehabilitation prevented the commencement of construction under said contract until the year 1947, at which time by virtue of higher rates of pay the costs of labor had substantially increased over those prevailing on the date of said contract and by reason of the removal of control over prices by the government the costs of materials had substantially increased over those prevailing on the date of said contract; and

WHEREAS, by reason of said increases in the costs of labor and materials the cost of the work contracted for was increased by approximately $28,978.80 in excess of the cost originally estimated and upon which the contract was based, and a moral obligation exists to reimburse said Moses Akiona in the amount of the excess of said costs, not including any fee or profit to said Moses Akiona, over those originally estimated; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized to appropriate and cause to be paid to Moses Akiona, out of the school fund and/or general fund of said city and county of Honolulu, a sum not to exceed $28,978.80 as reimbursement for the excess costs of construction, not including any fee or profit to said Moses Akiona, under post-active hostilities against enemy nations and rehabilitation conditions, of the public school teachers cottages in rural Oahu at Waialua and Kahuku.

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1947.) **H.B. 344, Act 46.**

Series F-245: ACT 67

An Act Relating to the Reimbursement of D & M Contractors, Ltd. of the Amount Declared Forfeit for Failure to Furnish Satisfactory Security and Enter into a Contract to Construct a Water Development Tunnel at Kaapi, Waianae, Oahu, T. H., and Authorizing the Board of Supervisors of the City and County of Honolulu to Appropriate Sufficient Moneys Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized to appropriate and cause to be paid to said D & M Contractors, Ltd., out of the general emergency fund of the said city and county of Honolulu the sum of $12,000.00.

Section 2. Upon the making of such appropriation by the board of supervisors of the city and county of Honolulu, the controller of the city and county of Honolulu is hereby authorized and directed to prepare and approve a voucher for the amount appropriated and direct the auditor of the city and county of Honolulu to draw a warrant upon the treasurer of the city and county of Honolulu, for the payment of the same to D & M Contractors, Ltd.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1947.) **S.B. 150, Act 67.**

Series F-246: ACT 162

An Act for the Relief of Certain Investigators Employed in the Office of the Public Prosecutor of the City and County of Honolulu and for the Relief of Certain Deputy Coroners Employed by Said City and County.

WHEREAS, John Jardine and Val Cederlof, investigators employed in the office of the public prosecutor of the city and county of Honolulu, during the period from March 12 to July 29, 1946, were required by the public prosecutor in cooperation with the attorney general of the Territory to work excessively long hours in connection with the investigation of alleged bribery of members of the Honolulu police department conducted jointly by said public prosecutor and attorney general and faithfully and loyally performed such service to the point of exhaustion, without compensatory time off except as hereinafter stated, such service in excess of regular hours of

work being, in the case of John Jardine in excess of five hundred sixty-six hours not compensated for by vacation or other compensatory time off for said period, and, in the case of Val Cederlof in excess of five hundred twelve hours, for which, however, at various times he has actually received in compensatory time off the equivalent of four hundred sixteen hours, leaving a balance of ninety-six hours, for said period; and

WHEREAS, Fred B. Kramer and Moses Branco, deputy coroners of said city and county, between the years 1942 and 1944, both inclusive, were required to perform twenty-four hour duty at the city and county jail for the purpose of performing the duties of the coroner, during which period they accumulated also amounts of overtime far in excess of those performed by other employees of said city and county, which have not been compensated for by vacation or other compensatory time off therefore; and

WHEREAS, under existing laws, such excessive hours of service cannot be compensated for; now, therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The public prosecutor of the city and county of Honolulu is hereby authorized, any other provision of law to the contrary notwithstanding, out of any moneys which may be made available by the board of supervisors of said city and county for expenditure by his department for personal services for the calendar year 1947, to pay to the said John Jardine the sum of $961.44 and to the said Val Cederlof the sum of $157.08, as and for compensation in lieu of vacation or other allowance for the said hours of service in excess of normal hours so worked by them during said period. The aforesaid payments shall not affect the rights of each of said investigators to normal vacation and sick leave.

Section 2. The sheriff of said city and county is likewise authorized, any other provision of law to the contrary notwithstanding, out of any moneys which may be made available by said board of supervisors for expenditure by his department for personal services for the calendar year 1947, to pay to the said Fred B. Kramer the sum of $200.00, and to the said Moses Branco the sum of $250.00 as and for compensation in lieu of vacation or other allowance for the said hours of service in excess of normal hours so worked by them during said period. The aforesaid payments shall not affect the rights of each of said deputy coroners to normal vacation and sick leave.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1947.) **H.B. 744, Act 162.**

Series F-247: ACT 24

An Act to Authorize the Board of Supervisors of the City and County of Honolulu to Continue to Realign and Reconstruct Pauoa Road from Nuuanu Avenue to Kanealii Street, Without Complying with the Provisions of Chapter 129, Revised Laws of Hawaii 1945.

WHEREAS, the city and county of Honolulu was authorized by Act 187, Session Laws of Hawaii 1941, to realign and reconstruct Pauoa Road from Nuuanu Avenue to Kanealii Street without complying with the provisions of chapter 92, Revised Laws of Hawaii 1935, as amended, provided that the cost of such work shall not exceed the sum of $55,000.00; and

WHEREAS, the city and county of Honolulu has commenced, but not yet completed, the realignment and reconstruction of said Pauoa Road; and

WHEREAS, the city and county of Honolulu has expended over $50,189.00 to date for work equivalent to less than fifty per centum of the whole project; and

WHEREAS, the city and county of Honolulu will require $63,000.00 in addition to the $55,000.00 initially set as a limit—that is to say, a limit of $118,000.00; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized to continue to realign and reconstruct Pauoa Road from Nuuanu Avenue to Kanealii Street for the total distance of approximately 1,500 feet, more or less, in accordance with plans on file in the office of the chief engineer, without complying with the provisions of chapter 129, Revised Laws of Hawaii 1945, **provided** that the cost of such work shall not exceed the sum of $118,000.00 (that is, $63,000.00 in addition to the limit of $55,000.00 set by Act 187, Session Laws of Hawaii 1941).

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1947) **H.B. 341, Act 24.**

Series F-248: ACT 236

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Make an Appropriation for the Relief of Marshall F. Wright, Agent.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Anything in any other law to the contrary notwithstanding, the board of supervisors of the city and county of Honolulu is hereby authorized to make an appropriation in the total sum of five thousand eight hundred sixty-nine dollars ($5,869.00), in favor of Marshall F. Wright, Agent, this amount being a claim for refund arising out of the construction of a water line, including manholes and valves, over and above the cost of a two inch water line, which work was completed by Marshall F. Wright, Agent, in a subdivision at Kailua, city and county of Honolulu, (Tax Key 4-3-31).

Section 2. Upon the making of such an appropriation by the board of supervisors of the city and county of Honolulu, the controller of the city and county of Honolulu is hereby authorized and directed to prepare and approve a voucher for this amount and direct the auditor of the city and county of Honolulu to draw a warrant upon the treasurer of the city and county of Honolulu, for payment of the same to Marshall F. Wright, Agent, upon the delivery to said auditor of a full release by the said Marshall F. Wright, Agent, of said claim and all other and further claims in connection therewith against the said city and county of Honolulu.

Section 3. This Act shall take effect upon its approval.

(Approved May 24, 1947.) **H.B. 775, Act 236.**

JOINT RESOLUTIONS.

J. R. 1

Joint Resolution Memorializing Congress to Authorize the Issuance of Public Improvement Bonds of the Territory During the Years 1947 to 1951 Inclusive Without Regard to the Limitations Imposed by the Hawaiian Organic Act.

WHEREAS, the public improvement program of the Territory was interrupted by the war; and

WHEREAS, no improvements have been financed by territorial bond issues for many years, the last such issue having been September 1, 1939; and

WHEREAS, during said period the Territory of Hawaii not only has sold no new issues of bonds for public improvements, but also has reduced its bonded indebtedness from the amount of $38,966,000, the amount of said bonded indebtedness as the same stood after the issuance of said public improvement bonds of September 1, 1939, to $11,076,000 as of March 1, 1947, the legislature having appropriated for the reduction of said bonded indebtedness the sum of $5,850,000, in addition to the regular appropriations for the sinking fund, by Act 8 of the Session Laws of Hawaii 1945; and

WHEREAS, the postwar requirements of the Territory for public improvements far exceed the amount obtainable from current taxes, and the limitations imposed by section 55 of the Hawaiian Organic Act would unreasonably defer the accomplishment of such improvements, which the necessities of war have already too long deferred; and

WHEREAS, it is the desire of the Legislature of the Territory of Hawaii to issue, over a five-year period, public improvement bonds of the Territory for necessary projects, without regard to the limits imposed by section 55 of the Hawaiian Organic Act, provided the total indebtedness of the Territory is not extended beyond $35,000,000; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby requested to authorize the issuance by the Territory of Hawaii, during the years 1947 to 1951 inclusive, any provision of the Hawaiian Organic Act or of any act of Congress to the contrary notwithstanding, of public improvement bonds in any amount, provided the total indebtedness of the Territory shall not at any time be extended beyond $35,000,000 by reason of such authorization, and any extension of the total indebtedness of

the Territory beyond such amount shall be made only in conformity with the Hawaiian Organic Act. Such bonds shall be serial bonds, payable in substantially equal annual installments, the first installment to mature not later than five years and the last installment to mature not later than thirty years, from the date of issue thereof. No such bond shall be issued until approved by the President of the United States.

Section 2. Duly authenticated copies of this Joint Resolution shall be transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior, and each of the two houses of the Congress of the United States.

(Approved March 29, 1947.) **S.J.R. 11, J.R. 1.**

Note: Approved by Congress, Public 190, 80th Congress, 1st session, c. 250.

J. R. 2

Joint Resolution Requesting the Congress of the United States of America to Continue the Availability of Funds Provided for Airport Construction in Hawaii as Legalized by Public Law 377—79th Congress.

WHEREAS, from news dispatches it has come to the attention of members of the Territorial Legislature now assembled, that it has been suggested by a subcommittee of the U. S. Senate Interstate and Foreign Commerce Committee that funds provided for improvements of airports during the year 1947 be diverted and used for aircraft aids and safety devices; and

WHEREAS, the transportation of persons and island produce between the islands is becoming more and more dependent on air transportation; and

WHEREAS, in order to furnish the necessary facilities for airplane operations so that the transportation of island produce and persons may be more efficiently handled, the Territory has looked with great favor on the National Airport Program and has provided funds with which to match federal funds on the improvement of Kalaupapa Airport, Lanai Airport, Lihue Airport, Hana Airport and Kailua Airport, and has under study the provision for additional funds for the improvement of other airports; and

WHEREAS, due to the ideal flying conditions within the Territory of Hawaii such aids and safety devices are not required to be installed here; and

WHEREAS, if the diversion of funds allocated or to be allocated to the Territory are to be expended for such aids this community will neither receive its just share of funds provided for it under Public Law 377, nor will it be able to proceed with its airport improvement program now being planned; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States is hereby respectfully requested to make no changes in funds provided for airport construction under the provisions of Public Law 377—79th Congress insofar as the purpose of expenditure of such fund within the Territory of Hawaii.

Section 2. Duly authenticated copies of this Joint Resolution shall forthwith be forwarded to the Delegate to Congress from Hawaii; the Secretary of the Interior; Honorable Wallace H. White, Jr., Chairman of the Senate Interstate and Foreign Commerce Committee; Honorable Charles A. Wolverton, Chairman of the House Interstate and Foreign Commerce Committee and to each of the two Houses of the Congress of the United States.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved April 3, 1947.) S.J.R. 5, **J.R. 2.**

J. R. 3

Joint Resolution Memorializing the Congress of the United States of America to Provide for the Exploration, Investigation, Development and Maintenance of the Fishing Resources and the Development of the High Seas Fishing Industry of the Territories and Island Possessions of the United States in the Tropical and Sub-Tropical Pacific Ocean and Intervening Seas.

WHEREAS, observations during the war in the Pacific and subsequent observations by fisheries biologist have disclosed that great schools of tuna and other valuable food fish abound in the waters comprising a broad belt on both sides of the equator; and

WHEREAS, a comprehensive survey of the fish resources of the Pacific should be undertaken in order to determine the nature and extent thereof and the possibilities of conducting large scale commercial fishing operations in the area; and

WHEREAS, there is pending in the Congress of the United States a bill designated H. R. 859, which provides for a survey of the fishing resources and the development of the high seas fishing industry of the territories and island possessions of the United States in the tropical and sub-tropical Pacific Ocean; and

WHEREAS, the results of the survey will encourage the development of these tuna fisheries to the benefit of the peoples of the Territory of Hawaii, Pacific island possessions and of the United States; and

WHEREAS, the development of food fish resources of the Pacific will add tremendously to the food supply of the nation and the by-products thereof will augment the supply of proteins available to agriculture; and

WHEREAS, the tuna fisheries of the Pacific islands are the major resources which may be developed to stabilize the economy of these islands so that they will not be a financial burden upon the peoples of the United States; and

WHEREAS, the development of these resources, if not done by the nationals of the United States, may be done by the nationals of other nations; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Legislature of the Territory of Hawaii hereby respectfully memorializes the Congress of the United States to take such steps as may be necessary to cause to be made a comprehensive survey of the fish resources of the Pacific Ocean as provided in H. R. 859, the extent to which and the methods by which commercial fishing may be encouraged and developed to the maximum level consistent with proper conservation, and the means of controlling such fisheries by treaty or otherwise.

Section 2. That the Congress of the United States appropriate the moneys provided in H. R. 859 in order to expedite an early start of the survey work.

Section 3. That duly authenticated copies of this Joint Resolution be transmitted to the President of the United States, the President Pro Tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of the Interior, the Chief of the Fish and Wildlife Service of the Department of the Interior and the Delegate to Congress from Hawaii.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved April 10, 1947.) **S.J.R. 13, J.R. 3.**

Note: See Public 329, 80th Congress, 1st session, c. 451.

HAWAII HOUSING.

J. R. 4

Joint Resolution Relating to Housing; Declaring a Public Emergency; Authorizing the Hawaii Housing Authority to Plan, Acquire, Own, Develop, Administer and Provide Housing and Other Facilities, to Borrow Money and Accept Assistance, and to Cooperate With the Federal Government; Transferring Certain Housing and Facilities to the Hawaii Housing Authority and Providing for Their Development and Administration; Conferring Certain Rights, Powers, Privileges and Immunities; Validating All Prior Actions Relating to the Development and Administration of Housing and Other Facilities; Creating a Revolving Fund; Making Appropriations; and Limiting the Application and Providing for the Suspension of Certain Statutes, Ordinances, Resolutions and Regulations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Findings and declaration.** It is hereby found and declared that there is an acute shortage of housing within many areas of the territory; that, with a greatly increased and growing population and severe limitation upon land-use in such areas, many persons, including veterans, families of veterans and families of servicemen, are unable to obtain housing, and that, as a consequence, it is imperative that action be taken immediately to assure the continued availability of housing developed and administered under chapter 324 of the Revised Laws of Hawaii 1945, and other territorial and federal laws, and to assure the development and administration of other housing necessary to remedy the above mentioned conditions; that the provisions hereinafter enacted are necessary to assure the availability, development and administration of such housing which otherwise would not be provided at this time. It is further declared to be the purpose of this Act to authorize the Hawaii Housing Authority to do any and all things necessary or desirable to develop and administer the housing now being developed or now administered under said chapter 324 or any other territorial or federal laws, to develop and administer other housing necessary or desirable to remedy the conditions above mentioned, and to secure the financial aid and other assistance of the federal government in the expeditious development and the administration of such housing. [L. 1947, J. R. 4, s. 1.]

PART I.

Section 2. **Definitions.** The following terms, wherever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

The terms "housing authority" or "authority", "Territory", "governor", "political subdivisions", "government", "federal government", and "real property" shall have the respective meanings set forth for such terms in chapter 61.

"Chapter 61", "chapter 63", and "chapter 324" mean respectively chapter 61, chapter 63 and chapter 324 of the Revised Laws of Hawaii 1945, including amendments to each chapter.

"Housing project" or "housing" means a building or buildings containing rooms to be provided as living quarters or accommodations, and other facilities, and appurtenances deemed reasonably necessary by the authority to the successful operation of the project, including land, buildings, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, commercial, public, recreational or other structures or spaces, approaches, streets, sidewalks, serv ices and utilities, and other site improvements.

"Develop" or "development" means the planning, financing, acquisition of real and personal property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration or repairing of approaches, streets, sidewalks, utilities and services, or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment or furnishing of buildings or other structures, or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part, from the federal government.

"Administer" or "administration" means the management, operation, maintenance and regulation of any housing project, and includes the leasing of any housing, in whole or in part, from the federal government, management and operation of housing under a contract with or permit from the federal government, fixing of rentals, selection of tenants, rental of living quarters and accommodations, rental or leasing of commercial structures and spaces, and providing of recreational and other facilities. It also includes any and all undertakings necessary therefor.

"Veteran" includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable.

"Families of veterans" include the families of persons who died while serving in the military or naval forces of the United States during World War II.

"Serviceman" includes any person who is serving in the military or naval forces of the United States.

"This Act", as used or referred to in sections 2 to 16, inclusive, means Part I hereof, and, as used in sections 18 to 21, inclusive, means Part II hereof, and, as used in sections 17, 22 and 23 means the entire joint resolution. [L. 1947, J. R. 4, s. 2.]

Section 3. **Housing authority, powers.** For the purpose of making housing available in those areas of the Territory where the authority finds (which finding shall be final in any suit, action or proceeding) that sufficient housing accommodations are not available and private enterprise is not providing an adequate supply of such housing, the authority may:

(a) Acquire by purchase, gift, grant, lease, license, permit, bailment, or otherwise, under the limitation of section 17 hereof, any property real or personal, or any interest therein for housing;

(b) Develop any property for the purposes of this Act;

(c) Administer any property for the purposes of this Act;

(d) Develop and administer housing for the purposes of this Act;

(e) Lease or rent structures or facilities, which have been acquired for housing but which have been found to be unsuitable for housing, for commercial purposes;

(f) Borrow money and accept grants and other assistance from governments or from local agencies or other sources;

(g) Cooperate with, or act as agent for, the federal government in the development or administration of housing;

(h) Comply with such terms and conditions as may be prescribed by the federal government in obtaining assistance from it for the purposes of this Act;

(i) Do any and all things necessary or convenient to carry out the purposes of this Act; or

(j) Exercise all or any part or combination of the powers conferred herein. [L. 1947, J. R. 4, s. 3.]

Section 4. **Housing authority, extension of powers.** In the ownership, development or administration of housing under this Act, the authority shall have all of the rights, powers, privileges and immunities that such authority has under chapter 61 and any law in amendment thereof or in addition thereto, except the power of eminent domain save as hereinafter expressly granted (including, without limitation to the generality of the foregoing, the power to make and execute contracts, to issue bonds and other obligations and give security therefor, and to

do any and all things necessary or convenient to develop and administer housing), in the same manner as though all the provisions of law applicable to slum clearance and housing projects were applicable to housing developed or administered under this Act; **provided,** however, that section 3519 of chapter 61 shall not apply to housing developed or administered by the authority under this Act; and, **provided,** further, that housing developed or administered by the authority under this Act shall not be subject to the limitations provided in sections 3531 and 3532 of chapter 61; and, **provided,** further, that the authority may make payments, in such amounts as it finds necessary or desirable, for any services, facilities, works, privileges or improvements furnished for or in connection with such housing. [L. 1947, J. R. 4, s. 4.]

Section 5. **Housing authority, aid from federal government.** The authority may borrow money or accept financial or other assistance from the federal government to assist in its developing and administering housing under this Act. The authority may do any and all things necessary or desirable to secure such assistance (including obligating itself in any contract with the federal government for loans or contributions to convey to the federal government the project to which said contract relates upon the occurrence of a substantial default thereunder), in the same manner as it may do to secure such aid in connection with slum clearance and housing projects under the provisions of chapter 61. [L. 1947, J. R. 4, s. 5.]

Section 6. **Housing, government aid, political subdivisions,** Any political subdivision may appropriate money for the purposes of meeting any local participation in housing costs or expenses required in order to obtain assistance from the federal government in the development and administration of housing under this Act, or of providing funds for use by the authority in developing and administering housing. [L. 1947, J. R. 4, s. 6.]

Section 7. **Housing, government aid, extension of powers.** The Territory, its political subdivisions and agencies, to the extent permitted by the Organic Act and other federal laws, shall have the same rights and powers to cooperate with and aid the authority with respect to the development and administration of housing under this Act that the Territory, its political subdivisions and agencies respectively have under and pursuant to chapter 63 for the purposes of aiding and cooperating in the planning, construction and operation of slum clearance and housing projects. [L. 1947, J. R. 4, s. 7.]

Section 8. **Housing, temporary, application or suspension of other laws, ordinances, etc.** Housing of a temporary character heretofore developed, or hereafter developed and administered under the provisions of this Act, and the authority in respect thereof, shall not be subject to the provisions of any statute, ordinance, resolution, or other regulation relating to city planning; zoning; utilities and services; the subdivision and use of land; fire limits; or the construction, erection, repair, moving, placing, maintenance, use and operation of buildings and other structures; **provided,** however, that such housing of a temporary character (1), if developed or administered with assistance from the federal government and required to be removed, by federal law or regulation, shall be removed within the period required by such federal law or regulation, or (2), if developed or administered with such assistance and not required to be so removed, shall be transferred or disposed of as required by the federal government, or (3), if developed or administered without such assistance, shall be removed upon a determination by the governor that the need for such housing for the purposes of this Act no longer exists, and, in any event, within a reasonable period after this Act expires. [L. 1947, J. R. 4, s. 8.]

Section 9. **Housing, permanent, disposition.** Any housing of a permanent character, which is administered under the provisions of this Act, shall, when it is determined by the governor that the need for such housing for the purposes of this Act no longer exists or, in any event, upon the expiration of this Act, becomes subject to and shall be administered by the authority under chapter 61; **provided,** that, if any such housing is developed or administered with assistance from the federal government, such transfer and administration is permitted by federal law or regulation. [L. 1947, J. R. 4, s. 9.]

Section 10. **Housing, tenant selection.** The authority may limit and may obligate the Territory or itself to the federal government to limit, the tenants of any housing developed or administered under this Act to veterans, families of veterans, families of servicemen, or to classes of persons who are unable to secure housing at rents within the financial reach of such persons, or, when required by federal law or regulation as a term or condition to obtaining assistance from the federal government, to other classes of persons. The authority may also give preference, and may obligate the Territory or itself to the federal government to give preference, in the selection of tenants for any such housing to veterans, families of veterans, families of servicemen, or to classes of persons who are unable to secure housing at rents within the financial reach of such persons, or, when required by federal law or regulation as a term

or condition to obtaining assistance from the federal government, to other classes of persons. Subject to such limitations and preferences, the authority shall select tenants upon the basis of those in greatest need for such housing. [L. 1947, J. R. 4, s. 10.]

Section 11. **Housing, existing housing, continuance, transfer, validation.** (a) All housing now being developed, or heretofore developed and now being administered, by the Territory or the authority, or by the federal government pursuant to contract between the federal government and the Territory or the authority, shall hereafter be developed and administered under and pursuant to this Act; **provided,** however, that this Act shall not apply to housing projects now or hereafter constructed and operated under chapter 61; and, **provided,** further, that, in regard to housing now or hereafter developed by the federal government and administered by the authority pursuant to contract between the federal government and the Territory or the authority, or developed or administered with assistance from the federal government, this Act shall apply to such housing only to the extent permitted by federal law or regulation. All such housing is hereby transferred to the jurisdiction of the authority, together with all assets, contracts, funds and property relating to or used in connection with such housing.

(b) The authority shall continue to develop and administer any and all such housing pursuant to the provisions of this Act, and shall observe and perform the terms and conditions, on the part of the Territory or the authority to be observed or performed, as the same may exist from time to time of all leases, permits, contracts and obligations heretofore made or entered into by the Territory or the authority with the federal government or with persons, firms, associations or corporations. All notes, contracts, obligations and other actions of the Territory or the authority heretofore issued, entered into or done relating to (including cooperating with or acting as agent of the federal government) in the development or administration of any such housing (including housing developed or administered under any federal law or regulation) are hereby ratified, validated and declared legal in all respects, notwithstanding any defect or irregularity therein or want of statutory authority therefor. Any balance of moneys required to be reimbursed out of net realizations from housing developed from the expenditure of territorial funds, by any rule or order of the governor made under chapter 324 or which pursuant to said chapter would have been reimbursed to the appropriations made for the purposes of said chapter out of such realizations, shall be transferred to the housing revolving fund created by this Act.

(c) All such housing which is located on real property of the Territory or of any political subdivision shall continue to be developed or administered upon such property under this Act. [L. 1947, J. R. 4, s. 11.]

Section 12. **Housing authority, revolving fund.** The treasurer is hereby authorized and directed to set up, out of any moneys heretofore or hereafter appropriated for the purposes of this Act, a revolving fund to be known as "The Housing Revolving Fund". All unexpended balances of appropriations, allocations, allotments, special revolving funds, or other funds heretofore created and made available for the purposes of developing or administering any housing subject to the provisions of this Act, or for the purposes of developing or administering any housing under chapter 324, shall be transferred to the housing revolving fund and are hereby appropriated for the purposes of this Act; **provided,** however, that any unexpended balances in any special revolving funds or other funds created and made available for housing developed, in whole or in part, with federal funds or with assistance from the federal government or for housing undertaken pursuant to contract between the federal government and the Territory or the authority under Title V of Public Law 849 of the 76th Congress, as amended, shall be segregated from other funds and shall be deposited and maintained as required by the federal government. There shall further be deposited in said housing revolving fund, on or after the date of expiration or repeal of the Hawaii Defense Act (subject, however, to the provisions of the second proviso of section 13139 of the Revised Laws of Hawaii 1945, and the provisions of any act of the Twenty-fourth Legislature making other disposition of funds in specific instances), all unexpended moneys appropriated for the purposes of said Hawaii Defense Act by Act 24 of the Special Session Laws of 1941 and Act 96 of the Session Laws of 1943, and all funds collected, reimbursed, or otherwise realized under the provisions of the Hawaii Defense Act which, were it not for the expiration or repeal of said Hawaii Defense Act, would have been available for the purposes of said Act, the sums so deposited being hereby appropriated for the purposes of this Act.

All moneys received by the authority under or pursuant to the provisions of this Act, including refunds, reimbursements, and rentals received from tenants, shall be deposited in the housing revolving fund, to the extent permitted by federal law or regulation, and are hereby appropriated for the purposes of this Act. Except as otherwise provided herein, the housing revolving fund may be expended by the authority for any and all of the purposes of this Act, including, without prejudice to the generality of the foregoing, the acquisition, clearance and

improvement of property; the construction and reconstruction of building sites; the construction, reconstruction, repair, remodeling, extension, equipment and furnishing of housing; the development and administration of housing; the payment of rentals; and administration and other expenses. The provisions of this section shall be subject to applicable federal law and regulation, to any contracts between the federal government and the Territory or the authority relating to housing subject to this Act, and to the terms and conditions of contributions or other assistance from the federal government. [L. 1947, J. R. 4, s. 12.]

Section 13. **Conformity with federal law.** In carrying out this Act the Territory and the authority shall cooperate, to the fullest extent consistent with the provisions of this Act, with the federal government, and are respectively authorized and directed to take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this Territory all advantages available under the provisions of any federal law or regulation. [L. 1947, J. R. 4, s. 13.]

Section 14. **Existing obligations, no impairment.** Nothing contained in this Act shall impair or affect any outstanding notes, contracts or obligations of the government of the Territory or of the authority. [L. 1947, J. R. 4, s. 14.]

Section 15. **Powers in addition to other powers.** The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of the authority. [L. 1947, J. R. 4, s. 15.]

Section 16. **Development of housing, termination of powers, expiration of Act.** The power of the authority to develop and administer housing for the purposes of this Act shall terminate and this Act shall cease to be in effect on June 30, 1953; **provided,** however, that notwithstanding the foregoing, this Act shall remain and continue in force with respect to any housing, and with respect to all contracts and obligations made and entered into for or in connection with such housing, if the federal government, as a condition to obtaining assistance from it for such housing, requires such housing to be developed or administered and such contracts and obligations to continue in force after June 30, 1953, and until such requirements and such contracts and obligations are no longer in force and effect; and, **provided,** further, that the powers of the authority under this Act in respect to housing of a temporary character, which is required to be removed, or housing of a permanent character which is not transferred under section 9 of this Act, shall continue for the purpose of accomplishing the removal or other disposition of such housing. [L. 1947, J. R. 4, s. 16.]

Section 17. The authority shall not expend any moneys appropriated or made available by Parts I and II of this Act to develop or administer any housing project except (1) for housing projects being developed or administered on the date of the enactment of this Act, and (2) for other housing projects which can be developed and administered without the exercise of the power of eminent domain.

The authority shall have the right to exercise the power of eminent domain for the purposes of this Act, subject to the limitations herein contained relating to the expenditure of moneys appropriated or made available by Parts I and II of this Act. [L. 1947, J. R. 4, s. 17.]

PART II.

Section 18. There is hereby appropriated out of the general fund of the Territory, the sum of $5,000,000, to be paid from time to time by way of advancement to the Hawaii Housing Authority, and to be repaid as provided by section 20 of this Act.

If the moneys in the general fund are at any time insufficient for the purposes of this Act, and there are moneys in the special or revolving funds which, in the treasurer's judgment, are in excess of the amounts necessary for the immediate requirements of the said funds, the treasurer is authorized to make temporary transfers of such excess moneys to the general fund if in his judgment such action will not impede or hamper the necessary financial operations of the Territory.

Section 19. Said appropriation shall be expended, subject to the provisions of section 17 hereof, for the development of housing. Part I hereof shall apply to such housing. The terms "housing", "develop" and "administer", as used in this Act, shall have the respective meanings set forth for such terms in Part I.

The moneys appropriated by this Act may be expended for the improvement of land and structures owned by the United States, which under and pursuant to Part I, have been or hereafter shall be placed under the administration of the Hawaii Housing Authority for housing by virtue of a lease, license or permit from, contract with, or other instrument from the federal government, irrespective of the duration of such lease, license, permit, contract, or other instrument; or may be expended for other housing.

Section 20. All of the net revenues (after payment by the Hawaii Housing Authority of all expenses of management, operation, maintenance and administration, including cost of insurance and administrative expenses of the Hawaii Housing Authority, and after setting up and maintaining such reserves as the Hawaii Housing Authority deems necessary for management, operation, maintenance, administration and betterments) of all housing developed from moneys appropriated by this Act shall, notwithstanding the provisions of Part I and any other territorial law, be deposited in the general fund of the Territory to the extent permitted by the terms of any contract hereafter made between the federal government and the Territory or the Hawaii Housing Authority relating to such housing. The provisions of this section shall be subject to federal law or regulation, when applicable, to any contracts now or hereafter made between the federal government and the Territory or the Hawaii Housing Authority relating to such housing, and to the terms and conditions of contributions and other assistance from the federal government.

Section 21. All housing developed from moneys appropriated by this Act shall continue to be administered by the Hawaii Housing Authority under Part I hereof and, with respect to all such housing, Part I, any provisions thereof to the contrary notwithstanding, shall remain and continue in force and effect after June 30, 1953.

Section 22. Saving clause. If any phrase, clause, sentence, subsection, section, provision or part of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected, and such remaining portions of this Act shall remain in full force and effect thereafter. The legislature hereby declares that it would have passed this Act, and each phrase, clause, sentence, subsection, section, provision or part thereof, irrespective of the fact that any one or more of the phrases, clauses, sentences, subsections, sections, provisions or parts be declared unconstitutional or invalid.

Section 23. Effective date. This Act shall take effect upon its approval.

(Approved May 2, 1947.) **H.J.R. 5, J.R. 4.**

J. R. 5

Joint Resolution Memorializing the Congress of the United States of America to Extend the Right to Become a Naturalized Citizen of the United States to Persons Whose Sons or Daughters Have Served Honorably in World War II and Who Themselves Have Not Been Disloyal to the United States of America.

WHEREAS, the Twenty-third Session of the Legislature of the Territory of Hawaii, by Senate Joint Resolution No. 2 duly enacted into law, memorialized the Congress of the United States of America to extend the right to become naturalized citizens of the United States to all those persons whose sons and daughters served honorably in the late World War and who have not themselves been disloyal to the United States and who except for race and nationality, complied with the naturalization laws; and

WHEREAS, the injustice of denying to such persons the privilege of citizenship which they have earned by the devotion which they and their children have displayed for the United States, becomes constantly more apparent, now therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby earnestly and respectfully requested to extend the right of naturalization to all persons whose sons or daughters have served honorably in any branch of the armed forces, merchant marine, the army transport service and other like services of the United States of America and who themselves have not been disloyal to the United States of America and who, except for race and nationality, comply with the naturalization laws.

Section 2. That duly authenticated copies of this Joint Resolution be transmitted to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the Congress, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

(Approved May 2, 1947.) **S.J.R. 6, J.R. 5.**

J. R. 6

Joint Resolution Augmenting the "Cat and Dog Fund" Provided for by Section 1067 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The unexpended balance of the payment made by the War Department of the United States in lieu of restoration of the Animal Quarantine Station, which by executive order of the governor was made available for expenditure by the board of commissioners of agriculture and forestry, is hereby transferred to and shall be credited to the "cat and dog fund", provided for by section 1067 of the Revised Laws of Hawaii 1945.

Section 2. This Joint Resolution shall take effect on its approval.

(Approved May 2, 1947.) S.J.R. 25, J.R.6.

J. R. 7

Joint Resolution Relating to the Rate of Interest on Land Sales; and Requesting the Congress of the United States to Approve Amendments Herein Set Forth of Chapter 78 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Effective upon approval by the Congress of the United States, Chapter 78 of the Revised Laws of Hawaii 1945 is amended in the following respects:

(a) By amending **section 4565** thereof by adding at the end thereof a new paragraph to read as follows:

"The rate of interest charged upon any sale of public lands for homestead, residence, or other purposes, shall not exceed four per cent per annum."

(b) By amending **section 4601** thereof by deleting from paragraph numbered "1." thereof the words "six per centum" and inserting in lieu thereof "four per centum."

Section 2. Effective upon approval by the Congress of the United States the rate of interest on all special sale agreements and special homestead agreements theretofore made is reduced to four per cent per annum as to interest thereafter accruing.

Section 3. The Congress of the United States is hereby requested to ratify and approve sections 1 and 2 of this joint resolution.

Section 4. The commissioner of public lands is hereby requested and, in so far as lies within the power of the legislature,

directed, to fix the rate of interest charged upon any sale of public lands hereafter made for homestead, residence, or other purposes, at not more than four per cent per annum.

(Approved May 8, 1947.) S.J.R. 1, J.R. 7.

J. R. 8

Joint Resolution Requesting the Congress of the United States of America to Increase the Compensation of Certain Public Officers in the Territory of Hawaii.

WHEREAS, in 1945 the Twenty-third Session of the Legislature of the Territory of Hawaii did adopt Joint Resolution No. 10 requesting the Congress of the United States of America to increase the compensation of certain territorial and federal officers; and

WHEREAS, the compensation now paid to certain territorial and federal officers in the Territory of Hawaii is utterly inadequate to compensate them in view of their duties and responsibilities or to enable them to meet the heavy expenses involved in the proper performance of their respective duties and the maintenance of the services required of them by law or demanded of them by the communities which they represent; and

WHEREAS, such condition has resulted and will continue to result in deterring able citizens in moderate financial circumstances from seeking public offices; and

WHEREAS, in 1946 by enacting Public Law 601, the Seventy-ninth Congress, Second Session, increased the compensation of the members of the Congress including that of the Delegate to Congress from Hawaii; and

WHEREAS, the Twenty-third Session of the Legislature of the Territory of Hawaii enacted Act 261 of the Session Laws of Hawaii 1945, providing for the payment by the Territory of Hawaii of additional compensation to certain public officers so as to augment the compensation fixed by federal law until such time as federal increases are granted; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States of America is hereby respectfully requested and urged to amend section 92 of the Hawaiian Organic Act so as to provide for an increase in the compensation of the following officers:

Governor of the Territory of Hawaii

Chief Justice and Associate Justices of the Supreme Court of the Territory of Hawaii

Judges of the Circuit Courts of the Territory of Hawaii

Secretary of the Territory of Hawaii.

Section 2. For the reason that the compensation of the Delegate to Congress from the Territory of Hawaii is fixed by the Congress of the United States in conformity with the compensation paid to other members of the Congress, no request is hereby made as to an increase in his compensation, but the same is left to the sound discretion of the Congress.

Section 3. Duly authenticated copies of this Joint Resolution shall forthwith be forwarded to the President of the United States, to each of the two Houses of the Congress of the United States, and the Judiciary Committees thereof, to the Secretary of the Interior, to the Attorney General of the United States, and to the Delegate to Congress from the Territory of Hawaii.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved May 8, 1947.) **S.J.R. 10, J.R. 8.**

J. R. 9

Joint Resolution Authorizing the Conveyance to the United States of America of a Portion of John Rodgers Airport.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The governor and commissioner of public lands, in consideration of the transfer by the United States of America of the buildings and other improvements and property, transfer of which is provided for by that certain letter agreement dated November 6, 1946, and in consideration of the performance by the United States of America of the other provisions of said agreement, are hereby authorized to convey to the United States of America a portion of John Rodgers Airport, Honolulu, more particularly described as follows:

Being a portion of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha, being also a portion of the land deeded to the Territory of Hawaii by the United States of America by the Secretary of War, deed dated February 9, 1942 and recorded in Liber 1691, Pages 383-385, and a portion of the land deeded to the Territory of Hawaii by the Trustees of the S. M. Damon Estate, by deed dated December 27, 1926, recorded in Liber 865, Pages 181-185, both deeds being recorded in the Bureau of Conveyances at Honolulu, T. H.

Land situated at Moanalua, Honolulu, Oahu, T. H.

Beginning at the North corner of this parcel of land, being also the end of Course No. 138 of the main description of Land Court Application 1074 and on the Southerly boundary of

United States Condemnation Civil Nos. 527 and 507, the coordinates of said point of beginning referred to Government Survey Triangulation Station "SALT LAKE" being 11,417.64 feet South and 4,533.90 feet West, thence running by azimuths measured clockwise from true South:

1.	302° 30′ 30″	643.28 feet	along Land Court Application 1074, United States Condemnation Civil Nos. 527 and 507;
2.	9° 07′	54.48 feet	across roadway along the remainder of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha;
3.	302° 30′ 30″	42.53 feet	along the Southwest side of roadway along the remainder of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha;
4.	19° 50′	94.74 feet	along the remainder of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha, to a pipe;
5.	Thence along same on a curve to the right with a radius of 500.00 feet, the chord azimuth and distance being 51° 05′ 518.-77 feet to a pipe;		
6.	82° 20′	480.00 feet	along the remainder of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha, to a spike;
7.	Thence along same on a curve to the right with a radius of 200.00 feet, the chord azimuth and distance being 116° 15′ 223.19 feet to a pipe;		
8.	150° 10′	583.93 feet	along the remainder of Royal Patent 7858, L. C. Award 7715, Apana 2 to L. Kamehameha, to a pipe;
9.	270° 00′	520.25 feet	along Land Court Application 1074, United States Condemnation Civil No. 527;
10.	226° 30′ 30″	430.30 feet	along same, to the point of beginning and containing an area of 756,006 square feet or 17.356 Acres.

Excepting and reserving, however, to the Territory of Hawaii a right of way over the perimeter road adjacent to course number 1 of the above described parcel of land, for vehicular traffic necessary for the operation of the airport.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 8, 1947.) **S.J.R. 20, J.R. 9.**

J. R. 10

Joint Resolution Authorizing the Territorial Board of Health to Maintain a Health Center at Nanakuli, Oahu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of health of the Territory is hereby authorized to maintain a health center at Nanakuli, Oahu, and to employ at said center a resident nurse who shall be subject to call for duty at such times as her services may be required.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 8, 1947.) **H.J.R. 6, J.R. 10.**

J. R. 11

Joint Resolution Relating to the Establishment of a School and Recreational Area in the County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The governor of the Territory of Hawaii and the commissioner of public lands are hereby requested and authorized (in so far as it lies within the power of this legislature to do so), to set aside the area in the county of Hawaii known as Camp Banyan as a school and recreational area for the county of Hawaii immediately upon the return of said Camp Banyan to the Territory by the United States.

Section 2. The commissioner of public lands is hereby authorized to negotiate with the agency or agencies of the United States now or hereafter having control of said Camp Banyan for the return of said area to the Territory.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 12, 1947.) **H.J.R. 24, J.R. 11.**

J. R. 12

Joint Resolution Creating a Commission to Study the Compensation and Classification of All Territorial and County Employees.

WHEREAS, under existing laws, the compensation of territorial and county employees, except those excluded therefrom or whose compensation is specifically fixed by other statutes, is determined in accordance with the provisions of the classification act of 1941, as amended, being chapter 3, Revised Laws of Hawaii 1945; and

WHEREAS, under existing law the compensation of school teachers, principals and other officers, except those excluded therefrom, is determined in accordance with the provisions of the single salary schedule act of 1941, as amended, being a part of chapter 28, Revised Laws of Hawaii 1945; and

WHEREAS, it appears that the compensation schedules therein contained have become obsolete and no longer adequately serve the purpose for which they were enacted because of the great increase in the cost of living since the original adoption of said schedules by the legislature, with the result that bonuses and other expediencies have had to be resorted to in order to attempt to provide adequate compensation for the employees whose compensation is determined by said schedules; and

WHEREAS, it also appears that certain abuses may have crept into the administration of the classification law in the classification and reclassification of positions thereunder, with the result that the purpose of classification is being defeated; and

WHEREAS, it is believed in view of the foregoing, that a study of classification in the public service of the Territory and the several counties should be conducted; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a classification study commission for the purposes hereinafter stated. The commission shall consist of seven (7) members who shall be appointed in the manner prescribed in section 80 of the Organic Act, one of which members shall be named by the governor in his appointment as chairman. Any vacancy in the membership of said commission shall be filled in the same manner as the original appointment was made. The commission may make such rules for the conduct of its proceedings as it may deem necessary or appropriate. No member of the commission shall forfeit any other office or employment or be precluded from accepting any

other office or employment by reason of his appointment as a member of said commission. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses.

Section 2. The commission shall conduct a thorough comparative study of salaries and wages of public officers and employees in the Territory of Hawaii, including those of the federal, territorial and county governments, and of salaries and wages of comparable positions in private industries and shall make a study and analysis of the existing classification laws, the compensation schedules therein contained and the administration of said laws in the government of the Territory and the several counties. The commission shall also make a study of the effects and desirability of establishing a single classification government agency for administering the law for the Territory, all political subdivisions and agencies thereof. The commission shall obtain such factual data as will enable it to draft, and the commission is hereby directed to draft such amendments to the classification laws as it may find to be necessary and desirable. The study of any subject relevant to the proper classification of positions in the public service and the proper compensation thereof shall be deemed within the scope of the commission's work hereunder.

Section 3. The commission and each commissioner may hold public hearings at any place in the Territory and shall have power to administer oaths, take testimony, issue subpoenas and compel the attendance of witnesses and the production of books and papers so far as may be necessary for the performance of its duties. The commission shall have access to the books, papers, records and documents of each and every office, officer, board, bureau, body, department, division, authority, district or other agency of the Territory or any of the several counties or any political subdivision thereof. The commission shall receive such assistance from such territorial or county officer or employee without extra compensation as it may request to carry out its function notwithstanding any provision of the law to the contrary. The commission shall have power to appoint and at its pleasure remove such assistants, employees and experts as it shall deem necessary, and to fix their compensation.

Section 4. The report of the commission covering any recommended amendments and a statement of its findings concerning the administration of the classification laws shall be submitted to the next regular session of the legislature at which time the terms of office of the members shall expire.

Section 5. There is hereby appropriated from the general revenues of the Territory for the purpose of defraying the expenses of the commission, the sum of twenty-five thousand dollars ($25,000.00), or so much thereof as may be necessary, said funds to be paid out of the treasury of the Territory on vouchers signed by the chairman of the commission on the warrant of the auditor of the Territory.

Section 6. This Joint Resolution shall take effect upon its approval.

(Approved May 12, 1947.) **S.J.R. 19, J.R. 12.**

J. R. 13

Joint Resolution Relating to the Taking of Property by Eminent Domain Proceedings for the University of Hawaii.

WHEREAS, the Twenty-third Legislature of the Territory of Hawaii by Act 168 of the Session Laws of Hawaii 1945 authorized and directed the acquiring of certain parcels of property for the use of the university of Hawaii, and made an appropriation to the regents of the university of Hawaii to enable the execution of such legislative direction; and

WHEREAS, a legal controversy has now arisen centering around the legislative intent as expressed in Act 168 of the Session Laws of Hawaii 1945 and the asserted ambiguity of the twenty-third legislature's implied finding that the use to which such parcels of land are to be put by the university of Hawaii is a more necessary public use than that to which they have already been appropriated or for which other governmental agencies seek to appropriate them; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All that property more particularly described in Act 168 of the Session Laws of Hawaii 1945 may be acquired by condemnation proceedings instituted under the provisions of chapter 8 of the Revised Laws of Hawaii 1945. The use to which such property is sought to be put by the university of Hawaii is hereby found and declared to be a more necessary public use than that to which it has already been appropriated or for which any other territorial, or city and county agency now seeks to appropriate it.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 14, 1947.) **H.J.R. 46, J.R. 13.**

J. R. 14

Joint Resolution Memorializing the Congress of the United States to Provide, for Purposes of Taxation of Income, That Damage Caused by the Tidal Wave Which Hit the Hawaiian Islands on April 1, 1946 and the Subsequent Tidal Waves or Like Marine Disturbances May Be Deducted from Income in Installments Over a Period of Five Years.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States of America is most respectfully memorialized to provide that, for purposes of taxation of income, deductions for damage caused by the tidal wave which hit the Hawaiian Islands on April 1, 1946 and the subsequent tidal waves or other marine disturbances of like nature may be deducted either wholly in the year in which such damage was suffered or in one-fifth instalments over a period of five years.

Section 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States of America, to the President of the Senate and to the Speaker of the House of Representatives of the Congress, to the Secretary of the Interior and to the Delegate to the Congress from Hawaii.

(Approved May 16, 1947.) S.J.R. 9, J.R. 14.

J. R. 15

Joint Resolution Directing the Land Commissioner to Acquire by Exchange or Otherwise Land at Waimea, Kauai, Suitable for the Site of the Waimea Public Library.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The land commissioner is hereby authorized and directed to acquire by exchange or otherwise, land at Waimea, Kauai, suitable for and to be used for the site of the Waimea Public Library, provisions for construction of which was authorized by Act 72 of the Session Laws of Hawaii 1945.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 17, 1947.) S.J.R. 15, J.R. 15.

J. R. 16

Joint Resolution to Continue in Effect Hawaii Defense Act Rule No. 74, Relating to the Termination of Public Employment and Rights Related to Vacation on Termination of Public Employment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Hawaii Defense Act **Rule No. 74** is hereby continued in effect until the end of June, 1949, notwithstanding that chapter 324 of the Revised Laws of Hawaii 1945, as amended, the Hawaii Defense Act, may be hereafter repealed or amended.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1947.) **S.J.R. 31, J.R. 16.**

J. R. 17

Joint Resolution Suspending the Laws and Ordinances Relating to the Construction and Maintenance of Structures Within the Fire Limits of the City and County of Honolulu in Certain Cases.

WHEREAS, it is necessary for the Territory to maintain certain temporary wooden structures within the fire limits of the city and county of Honolulu for governmental purposes until such time as permanent structures can be erected to provide office space for the personnel occupying such temporary structures; and

WHEREAS, there are other nonconforming structures in use for essential community services within said fire limits; and

WHEREAS, the public interest may require the construction and maintenance of other temporary structures in cases of emergency; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 5 of **section 6521** of the Revised Laws of Hawaii 1945, all ordinances enacted pursuant thereto and any other similar law or ordinance are hereby suspended in their application to the maintenance of temporary structures within the fire limits of the city and county of Honolulu in the following respects:

(a) To such nonconforming structures as are now maintained by the Territory;

(b) To such nonconforming structures as the board of supervisors of the city and county of Honolulu, by resolution, shall find necessary for essential community services, **provided** that the board shall require their removal within such time as it shall deem reasonable.

Section 2. Paragraph 5 of **section 6521** of the Revised Laws of Hawaii 1945, all ordinances enacted pursuant thereto and any other similar law or ordinance are hereby suspended in their application to the construction and maintenance, within the fire limits of the city and county of Honolulu, of such nonconforming structures as the governor shall find necessary in the public interest, **provided** that such structures shall be constructed in cases of emergency only, and **provided** further that no nonconforming structure shall be constructed except under such conditions as the governor shall deem necessary to insure its removal as soon as reasonably practicable after the termination of the emergency.

Section 3. **Rule number 78,** issued by the governor on December 1, 1943, under the authority of the Hawaii Defense Act, is hereby ratified and confirmed.

Section 4. This Joint Resolution shall take effect upon its approval and shall be effective until June 30, 1949.

(Approved May 19, 1947.) **S.J.R. 29, J.R. 17.**

J. R. 18

Joint Resolution Relating to Airports at Kahului and Puunene, County of Maui.

WHEREAS, newspaper announcements indicate that the United States Navy will soon abandon the use of its Kahului airport on Maui; and

WHEREAS, this airport may be more economically operated and may provide safer airplane operations than the territorially-owned airport at Puunene; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The superintendent of public works is directed to make a survey in cooperation with the local civil aeronautics administration officials and the United States Navy Department to determine (1) whether or not the Kahului airport can be made available for civilian flying in lieu of the Puunene airport; (2) whether or not airplane operations at the Kahului airport can be carried on more safely than at the Puunene airport; and (3) whether or not the Kahului airport can be operated more economically than the Puunene airport.

Section 2. Should the survey provided for in section 1 show that the Kahului airport is the more logical airport for civilian use, the superintendent of public works is authorized to make such arrangements as may be possible for its transfer to and operation by the Territory.

Section 1. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1947.) **S.J.R. 37, J.R. 18.**

J. R. 19

Joint Resolution Requesting Congress of the United States of America to Pass Legislation Enabling the Legislature of the Territory of Hawaii to Authorize the City and County of Honolulu to Issue Sewer Bonds.

WHEREAS, the city and county of Honolulu is prepared to initiate a program of public improvement, interrupted and delayed by the war, and

WHEREAS, it is the desire of the Territory of Hawaii to aid, assist and cooperate with the city and county in its program of public improvement, and

WHEREAS, the city and county has expended a sizeable sum for the planning of a complete sewerage system including a sewage treatment and disposal plant as part of its program of public improvement, and

WHEREAS, the limitation on bonded indebtedness as set in the Hawaiian Organic Act and the Revised Laws of Hawaii 1945 limits the city and county in the issuance of bonds to finance such public improvement, and

WHEREAS, it is to the loss of the city and county to cause a further delay in the commencement of such a program by the city and county, now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be, and it hereby is, requested, through the Delegate to Congress from the Territory of Hawaii to enact legislation which will enable the Territory of Hawaii, any provision of the Hawaiian Organic Act or of any Act of this Congress to the contrary notwithstanding, to authorize the board of supervisors of the city and county of Honolulu to issue general obligation bonds in the sum of five million dollars ($5,000,000.00) for construction, maintenance and repair of a sewerage system in the

city of Honolulu and to that end the Congress of the United States of America is hereby requested and urged, through said Delegate to Congress, to adopt a bill in substantially the following form, to-wit:

"An Act to Enable the Legislature of the Territory of Hawaii to Authorize the City and County of Honolulu, a Municipal Corporation, to Issue Sewer Bonds.

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the Legislature of the Territory of Hawaii, any provision of the Hawaiian Organic Act or of any Act of this Congress to the contrary notwithstanding, may authorize the city and county of Honolulu, a municipal corporation of the Territory of Hawaii, to issue general obligation bonds in the sum of $5,000,000.00 for the purpose of enabling it to construct, maintain and repair a sewerage system in the city of Honolulu.

Section 2. The bonds issued under authority of this Act may be either term or serial bonds, maturing, in the case of term bonds, not later than thirty years from the date of issue thereof, and, in the case of serial bonds, payable in substantially equal annual installments, the first installment to mature not later than five years and the last installment to mature not later than thirty years from the date of such issue. Such bonds may be issued without the approval of the President of the United States.

Section 3. Act [69] of the Session Laws of Hawaii 1947, pertaining to the issuance of sewerage system bonds, as authorized by this Act, is hereby ratified and confirmed subject to the provisions of this Act: **Provided,** however that nothing herein contained shall be deemed to prohibit the amendment of such territorial legislation by the legislature of the Territory of Hawaii from time to time to provide for changes in the improvements authorized by such legislation and for the disposition of unexpended moneys realized from the sale of said bonds. APPROVED: ....."

Section 2. This Resolution shall take effect upon its approval.

(Approved May 20, 1947.) **S.J.R. 22, J.R. 19.**

Note: Approved Public 200, 80th Congress, 1st session, c. 265.

J. R. 20

Joint Resolution to Continue in Effect Hawaii Defense Act Rule No. 141, Relating to Public Employment and Providing for Transfer of Vacation and Sick Leave Credits and Maintenance of Rates of Compensation in Cases of Transfers of Public Employees and Persons Entitled to Public Reemployment Between Governmental Divisions, Providing for the Preservation of Employees' Privileges and Benefits and for Successive Emergency Appointments, and Empowering the Territorial Civil Service Commission to Make Uniform Rules for All Governmental Divisions of the Territory for the Effectuation of Hawaii Defense Act Rule No. 141.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Hawaii Defense Act **Rule No. 141** is hereby continued in effect until the end of June 1949, notwithstanding that chapter 324 of the Revised Laws of Hawaii 1945, as amended, the Hawaii Defense Act, may be hereafter repealed or amended.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 21, 1947.) **S.J.R. 32, J.R. 20.**

J. R. 21

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Appropriating Sufficient Funds to Reimburse the Several Counties of the Territory of Hawaii for the Cost of Restoring the Pavement of Streets, Roads and Highways (subjected to war damage) to their Prewar Condition.

WHEREAS, the streets, roads and highways of the several counties of the Territory of Hawaii were, throughout the war, subjected to severe and heavy traffic by the vehicles of the armed forces and their contractors; and

WHEREAS, such severe and heavy traffic resulted in substantial damage to the pavements of the streets, roads and highways of the several counties; and

WHEREAS, restoration of all streets, roads and highways of the several counties to their prewar condition would impose too great a financial burden on the several counties; and

WHEREAS, under Public Law 694, 79th Congress, there is provided funds in the amount of $4,000,000 to cover an estimate of the minimum damage to territorial and county highways, and

WHEREAS, this sum appears insufficient to take care of the cost of repair of all war damage to highways, now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby requested, through the delegate to Congress from the Territory of Hawaii, to enact legislation which will appropriate sufficient funds to the several counties of the Territory of Hawaii to reimburse them for the cost of restoring the pavements of their streets, roads and highways to prewar condition.

Section 2. That the Honorable Joseph R. Farrington, delegate to Congress from Hawaii, be and he is hereby requested to afford every assistance and aid possible in seeking passage of such legislation.

Section 3. This Resolution shall take effect upon its approval.

(Approved May 22, 1947.) **S.J.R. 34, J.R. 21.**

J. R. 22

Joint Resolution Requesting the Congress of the United States to Amend Sections 207, 209, 213, 215, 216, 220, 222, and 225 of the Hawaiian Homes Commission Act, 1920, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby requested to amend sections 207, 209, 213, 215, 216, 220, 222, and 225 of title 2 of the Hawaiian Homes Commission Act, 1920, as amended, substantially as set forth in the following form of bill:

"A Bill to Amend Sections 207, 209, 213, 215, 216, 220, 222, and 225, of Title 2 of the Hawaiian Homes Commission Act, 1920, as Amended.

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:

Section 1. That section 207 (a) of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

'**Sec. 207. Leases to Hawaiians, licenses.** (a) The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than forty acres of agricultural lands; or (2) not less than one hundred nor more than five hundred acres

of first-class pastoral lands; or (3) not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands; or (4) not more than one acre of any class of land to be used as a residence lot; **provided,** however, that, in the case of any existing lease of a farm lot in the Kalanianaole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the lessee concerned; **provided,** further, that a lease granted to any lessee may include two detached farm lots located on the same island and within a reasonable distance of each other, one of which, to be designated by the commission, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural or pastoral lot, as the case may be, as provided in this section.'

Section 2. **Section 207 (c)** of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

'(c) (1) The commission is authorized to grant licenses for terms of not to exceed twenty-one years in each case, to public utility companies or corporations as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The commission is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, to:

(A) Churches, hospitals, and public schools;

(B) Theatres, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by lessees of the commission or by organizations formed and controlled by said lessees).

(2) The commission is also authorized, with the approval of the governor, to grant licenses to the United States for terms not to exceed five years, for reservations, roads, and other rights of way, water storage and distribution facilities, and practice target ranges; **provided** that any such license may be extended from time to time by the commission, with the approval of the governor, for additional terms of three years; **provided,** further, that any such license shall not restrict the areas required by the commission in carrying on its duties, nor interfere in any way with the commission's operation or maintenance activities.'

Section 3. Section 213 of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

"**Sec. 213. Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; Hawaiian home-administration account.** (a) There are hereby established in the treasury of the Territory two revolving funds to be known as the Hawaiian home-loan fund and the Hawaiian home-operating fund, and two special funds to be known as the Hawaiian home-development fund and the Hawaiian home-administration account.

(b) **Hawaiian home-loan fund.** Thirty per centum of the territorial receipts derived from the leasing of cultivated sugar cane lands under any other provisions of law, or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal two million dollars ($2,000,000). In addition to these moneys there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209 (l), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209 (l), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

(c) **Hawaiian home-development fund.** Twenty-five per centum of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund until the aggregate amount of such annual transfers shall equal $400,000. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other non-revenue producing improvements.

(d) **Hawaiian home-operating fund.** All moneys received by the commission from any other source, except moneys received for the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the Territory of such amounts as are necessary to meet the following charges for territorial bonds issued for such revenue producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said fund or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies or equipment and for services, to be resold, rented or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed five hundred thousand dollars ($500,000). No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) **Match moneys.** The commission is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, territorial, or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) **Hawaiian home-administration account.** The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the commission for salaries and all other administration expenses of the commission, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The commission shall, at such time as the governor may prescribe, but not later than November 15 preceding each biennial session of the legislature, submit to the territorial director of the bureau of the budget its budget estimates of expenditures for the next ensuing biennium in the manner and form and as required by territorial law of territorial departments and establishments.

(2) The commission's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.

(3) Upon approval by the legislature of the commission's budget estimate of expenditures for the ensuing biennium, the amount thereof shall be available to the commission for said biennium and shall be expendable by the commission for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of two hundred thousand dollars ($200,000), shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the biennium or so made available shall be transferred to the general fund of the treasury of the Territory, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

(4) The money in said administration account shall be expended by the commission in accordance with territorial laws, rules and regulations and practices.'

Section 4. **Section 215** (1) of the Hawaiian Homes Commission Act, 1920, as last amended by the Act of November 26, 1941, 55 Statutes at Large, page 785, is hereby fur-

ther amended by deleting from the first sentence the figures '$3,000' and inserting in lieu thereof '$5,000', and by deleting from the first sentence the figures '$1,000' and inserting in lieu thereof '$3,000', so as to cause the portion of the first sentence following the colon and preceding the proviso to read as follows:

'The amount of loans at any one time to any lessee, or successor or successors in interest, of a tract of agricultural or pastoral land shall not exceed $5,000 and to any lessee or successor or successors in interest, of a residence lot shall not exceed $3,000:'.

Section 5. **Section 215 (2)** of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

'(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual or annual as may be determined by the commission in each case. The term of the loan shall not exceed thirty years, provided that payments in any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of three per centum per annum, payable periodically or upon demand by the commission, as the commission may determine. The payment of any installment due shall, with the concurrence therein of at least three of the five members of the commission, be postponed in whole or in part by the commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of three per centum per annum on the unpaid principal.'

Section 6. Section 216 of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

'Sec. 216. **Insurance by borrowers; acceleration of loans; lien, and enforcement thereof.** The commission may require the borrower to insure, in such amount as the commission may by regulation prescribe, all livestock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the fund; or in lieu thereof

the commission may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5) or (6) of section 215 of this title, the commission shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest in the tract as the case demands. If upon such hearing the commission finds that the borrower has violated the condition the commission may declare all principal and interest of the loan immediately due and payable, notwithstanding any provision in the contract of loan to the contrary. The commission shall have a first lien upon the borrower's or lessee's interest in his tract, growing crops, either on the tract or in any collective contract or program, dwellings, or other permanent improvements thereon, and his livestock, to the amount of all principal and interest due and unpaid and of all taxes and insurance upon such tract and improvements paid by the commission, and of all indebtedness of the lessee, the payment of which has been assured by the commission. Such lien shall have priority over any other obligation for which the tract, said growing crops, dwellings, other improvements, or livestock may be security.

The commission may, at such times as it deems advisable enforce any such lien by declaring the borrower's interest in his tract, or his successor's interest therein, as the case may be, together with the said growing crops, dwellings, and other permanent improvements thereon, and the livestock, to be forfeited, the lease in respect to such tract cancelled, and shall thereupon order the tract to be vacated and the livestock surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revest in the commission, and the commission may take possession of the tract and the improvements and growing crops thereon; provided that the commission shall pay to the borrower any difference which may be due him after the appraisal provided for in paragraph (1) of section 209 of this title has been made.'

Section 7. Section 220 of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

'Sec. 220. **Development projects; appropriations by territorial legislature; bonds issued by legislature.** The commission is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteaders, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the commission; **provided,** however, that roads through or over Hawaiian home lands, other than federal-aid highways and roads, shall be maintained by the county or city and county in which said particular road or roads to be maintained are located. The legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it deems necessary to augment the Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund, and the Hawaiian home-administration account, and to provide the commission with funds sufficient to execute and carry on such projects and activities. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue producing improvements, the commission shall provide, as set forth in section 213 (d).'

Section 8. **Section 222** of the Hawaiian Homes Commission Act, 1920, as last amended by the Act of November 26, 1941, 55 Statutes at Large, page 787, is hereby further amended by amending the second sentence thereof to read as follows:

'All expenditures of the commission, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund, and all moneys necessary for loans made by the commission, in accordance with the provisions of this chapter, from the Hawaiian home-loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission.'

Section 9. Section 225 of the Hawaiian Homes Commission Act, 1920, as amended, is hereby further amended to read as follows:

"**Sec. 225. Investment of loan funds; disposition.** The commission shall have the power and authority to invest and reinvest any of the moneys in the loan fund, not otherwise immediately needed for the purposes of the fund, in such bonds and securities as authorized by territorial law for the investment of territorial sinking fund moneys. Any interest or other earnings arising out of such investments shall be credited to and deposited in the Hawaiian home-operating fund and shall be considered a deposit therein from the other sources mentioned in section 213 (d)."

Section 10. This Act shall take effect on and after the date of its approval."

Section 2. This Joint Resolution, upon its approval, shall be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to the Delegate to Congress from the Territory of Hawaii.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1947.) **H.J.R. 38, J.R. 22.**

J. R. 23

Joint Resolution Suspending a Portion of Section 6709, Revised Laws of Hawaii 1945, Relating to Improvements in the City and County of Honolulu on the Petition of 100% of the Owners in the Proposed Improvement District.

WHEREAS, the insufficiency of building lots in the city and county of Honolulu impedes the provision of adequate housing through private construction, and places an undue burden on public housing projects; and

WHEREAS, additional building lots could be provided by improvements by the city and county of Honolulu under chapter 129, Revised Laws of Hawaii 1945, on the petition of 100% of the owners in the proposed improvement district, were it not for the provisions of the second paragraph of section 6709, Revised Laws of Hawaii 1945, that : "No such improvement shall be approved by the board unless the assessed valuation for taxation purposes of the land to be so improved is twice the cost of the proposed improvement"; and

WHEREAS, the above quoted provision is detrimental to the efficient discharge of functions of the city and county of Honolulu under said chapter 129, and this comes about by reason of the present emergency conditions which have caused a great disparity between the assessed value of land and the cost of the improvements necessary to open such land for residential construction; and

WHEREAS, in many cases, the board of supervisors of the city and county of Honolulu would find that a proposed improvement project was prudent and in the best interests of the public in securing adequate housing, if said board possessed discretion in the matter; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The second paragraph of **section 6709** of the Revised Laws of Hawaii 1945 is hereby suspended in its application to such proposed improvement projects not conforming thereto as the board of supervisors of the city and county of Honolulu, by resolution, shall find to be prudent and in the best interests of the public in securing adequate housing, but only with respect to improvement projects so approved by the board.

Section 2. **Rule number 153,** issued by the governor on August 29, 1946 under the authority of the Hawaii Defense Act, and all action taken thereunder and pursuant thereto are hereby ratified, validated and confirmed.

Section 3. This Joint Resolution shall take effect upon its approval, and shall remain in effect until June 30, 1951, on which date it shall cease to be effective.

(Approved May 23, 1947.) **S.J.R. 30, J.R. 23.**

J. R. 24

Joint Resolution Relating to a Living Memorial for the Heroic Dead of World War II.

WHEREAS, it is fitting that a suitable memorial should be erected in Honolulu, Territory of Hawaii, to commemorate the sacrifices of our heroic dead of World War II, and

WHEREAS, a living memorial devised both to keep alive the memories of these, our glorious dead, and also to serve the future needs of those yet living and for whose freedom the war was fought is more to be desired than an inert monument lacking a continuing service to mankind, and

WHEREAS, there is now a great national foundation known as the Pacific War Memorial, Incorporated, duly endorsed by the appropriate departments of our federal government, which

is seeking to raise the sum of ten million dollars, ($10,000,000.00) from all over America to establish and maintain such a living war memorial as a service to mankind, and this Pacific War Memorial, Incorporated, is contemplating establishing in Honolulu an operating base for a scientific survey and study of the Pacific Ocean and its islands and their peoples, thus increasing understanding, health, prosperity, and harmony among the peoples of the Pacific, and

WHEREAS, there now exists in Honolulu with a charter of the Territory of Hawaii a local organization known as the Pacific Memorial Foundation, whose objective is to promote in Hawaii the establishment of a suitable living memorial to our dead heroes of World War II, and

WHEREAS, it would be of great benefit to have the Pacific Memorial Foundation recognized as the official agency to study all the various proposals for war memorials advocated for the Territory and to determine upon and recommend the most fitting and suitable of these for adoption and establishment, and also to promote and insure the cooperation of the local agency with the national agency known as the Pacific War Memorial, Incorporated, and

WHEREAS, it is understood and hereby provided that such cooperation and/or affiliation between the Pacific War Memorial Foundation, Incorporated, and the Pacific Memorial Foundation will in no way prevent local groups or communities from developing their own preference in memorials, but rather shall tend to insure a more effective and fitting memorial, combining some or all of the several choices for suitable memorials, and

WHEREAS, it is fitting that (1) the memorial projects of local groups, including those of the Pacific Memorial Foundation for a living memorial, and (2) the plan of the Pacific War Memorial, Incorporated, for an operating base in Honolulu for a scientific study of the Pacific as a living memorial shall, insofar as practicable, be combined and provided a site together in Honolulu, now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the thanks of the people of Hawaii be extended to the Pacific War Memorial, Incorporated, for selecting Hawaii as the site for its chief operating base.

Section 2. That the Pacific Memorial Foundation is declared to be the official war memorial agency of the Territory of Hawaii.

Section 3. That the Pacific Memorial Foundation is authorized to take all practicable steps not in conflict with the statutes of the Territory of Hawaii to secure the cooperation of the Pacific War Memorial, Incorporated, and to secure a suitable site, and to cooperate insofar as is practicable in the development of such site for the establishment of a fitting living memorial to the unforgotten dead of World War II.

(Approved May 23, 1947.) **S.J.R. 36, J.R. 24.**

J. R. 25

Joint Resolution Requesting the Congress of the United States to Amend the Act Entitled: "An Act to Provide a Government for the Territory of Hawaii", Approved April 30, 1900, as Amended, Known as the Hawaiian Organic Act, by Amending Section 73 Thereof; and Requesting the Congress to Approve Amendments Herein Set Forth of Chapter 78 of the Revised Laws of Hawaii 1945, and to Approve the Making, Insuring or Guaranteeing of Certain Loans.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby requested to amend the act entitled: "An Act to provide a government for the Territory of Hawaii", approved April 30, 1900, as amended, known as the Hawaiian Organic Act, and to approve the amendments of chapter 78 of the Revised Laws of Hawaii 1945 made by section 2 of this Joint Resolution, substantially as set forth in the following form of bill:

"A BILL

To amend 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900, as amended, known as the Hawaiian Organic Act, by amending section 73 thereof; and to approve amendments of chapter 78 of the Revised Laws of Hawaii 1945.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 73 of the act entitled 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900, as amended, is hereby further amended as follows:

(1) By amending subsection (f) thereof to read as follows:

'(f) No person shall be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who, or whose husband or wife, has previously taken or held more than ten acres of land under any such certificate, lease, or agreement made or issued after May 27, 1910, or under any homestead lease or patent based thereon; or who is an alien, unless

he has declared his intention to become a citizen of the United States as provided by law, and no person who has so declared his intention and taken or held under any such certificate, lease or agreement shall continue so to hold or become entitled to a homestead lease or patent of the land, unless he becomes a citizen within five years after so taking. No person shall be entitled to receive any homestead agreement for a houselot who, or whose husband or wife, or both of them owns other land in the Territory, except that the ownership of land which, in the opinion of the commissioner, is not suitable for residence purposes, because of its small size, its location, the unavailability of utilities, or similar factors, or because the interest therein of the applicant, or whose husband or wife, or both of them, as the case may be, is insufficient to make such land available to the applicant for residence purposes, shall not be a disqualification. No person shall be entitled to receive any certificate, lease or agreement for any other type of homestead who, or whose husband or wife, or both of them, owns other land in the Territory, the combined area of which and the land in question exceeds eighty acres.'

(NOTE: The word "whose" in the twenty-first line of subsection (f) above was changed from the word "his" which appears in the original: obvious clerical error.)

(2) By amending subsection (i) thereof by inserting a new sentence therein after the first sentence and preceding the second sentence, to read as follows:

'If, among the qualified applicants, there are one or more veterans of World War II (being persons who served in the military or naval forces of the United States during World War II and who have been discharged or releasd therefrom under conditions other than dishonorable), such veterans shall have priority in the allotment of houselots, the order in which such veterans shall be entitled to take, as between themselves, to be determined by lot.'

(3) By amending subsection (l) thereof by amending the first proviso of said subsection so as to delete therefrom the provisions for sale of lots for residence purposes, said proviso to be amended to read as follows:

'Provided, however, That sales of government lands may be made upon the approval of the land board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories, and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools;

and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking:'

(4) By amending subsection (m) thereof to read as follows:

'(m) Whenever twenty-five or more persons each having the qualifications to receive a houselot, who have not theretofore made application for a homestead under this Act, shall make written application to the commissioner of public lands for the opening of lands for settlement in any locality or district, it shall be the duty of the commissioner to proceed expeditiously to survey and open for entry suitable houselots, whether unoccupied or under lease with the right of withdrawal, sufficient in area to provide houselots for all such persons, together with all persons of like qualification who shall have filed with the commissioner prior to the survey of such lands written applications for such houselots in the district designated in the applications. The lands to be so opened for settlement by the commissioner shall be either the specific tract or tracts applied for or other suitable and available lands in the same geographical district and, as far as possible, in the immediate locality of and as nearly equal to that applied for as may be available. **Provided,** however, That no leased land, under cultivation, shall be taken for homesteading until any crops growing thereon shall have been harvested.'

(5) By amending subsection (n) thereof to read as follows:

'(n) In laying out any homestead the commissioner shall obtain the approval of the land board as to the class and area of land included therein. The land included therein may be limited to the amount needed for a houselot; the term "houselot" as used in this part shall mean a homestead not exceeding one-third of an acre in area. If intended for cultivation or pasturage the land included in the homestead may exceed one-third of an acre but shall not exceed eighty acres of agricultural lands and two hundred and fifty acres of first-class pastoral lands or five hundred acres of second-class pastoral lands; or in case of a homestead including pastoral lands only, not exceeding five hundred acres of first-class pastoral lands or one thousand acres of second-class pastoral lands. All necessary expenses for surveying and opening any such lands for homesteads shall be paid for out of any funds in the territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.'

(6) By amending subsection (p) thereof to read as follows:

'(p) Nothing herein contained shall be construed to prevent the commissioner from surveying and opening for homestead purposes and as a single homestead entry public lands suitable for both agricultural and pastoral purposes, whether such lands be situated in one body or detached tracts, to the end that homesteaders may be provided with both agricultural and pastoral lands, or from including in such homestead entry a detached lot for residence purposes, or a detached lot of wet land. Wherever in this chapter provision is made for the homesteading of a lot such provision shall be deemed to apply also to such detached lots or tracts included in a single homestead entry.

All houselots offered for homesteading shall be offered on special homestead agreements. Other types of homesteads may be offered on certificates of occupation, right of purchase leases, special homestead agreements, or cash freehold agreements.'

Section 2. This Act shall take effect upon its approval."

Section 2. Effective upon the approval by the Congress of the United States, chapter 78 of the Revised Laws of Hawaii 1945 is amended in the following respects:

(1) By amending section 4560 thereof to read as follows:

"Sec. 4560. Form of declaration on application for homestead lease, right of purchase lease, or special homestead agreement. Form of declaration on application for homestead leases, right of purchase leases, or special homestead agreements.

TERRITORY OF HAWAII)
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ISLAND OF ————)

'I————————————being sworn, say that I am over eighteen years old; that I am a citizen of the United States (or that I have declared my intention to become a citizen of the United States, as provided by law); that I am under no civil disability for any offence; that I am not delinquent in the payment of taxes; that I have made no false declaration in applying for land under the laws relating to public lands in the Territory; that I am married (or unmarried); that I have not previously taken or held more than ten acres of land under a certificate of occupation, right of purchase lease, cash freehold agreement or special homestead agreement, made or issued after May 27, 1910, or under any homestead lease or patent based

thereon (and if married that wife or husband has not so taken or held any lands); that I do not own other land in the Territory (if married, that neither I nor my wife or husband, or both of us, as the case may be, owns other land in the Territory), except as follows: .....
.....; that besides the land now applied for I am not an applicant for any public land or interest therein in the Territory (and if married that wife or husband is not such an applicant); and that I am applying for the said land solely for my own use and benefit, and not for the benefit of any other person.' "

(NOTE: The first word "am" in the tenth line of Sec. 4560 above was changed from "an" which appears in the original: obvious clerical error.)

(2) By inserting therein a new section to be numbered 4565.01 and to read as follows:

"**Sec. 4565.01. Loans on houselots.** As used in this section 'qualified institution' means any corporation or company subject to the supervision of the federal government or the Territory, and authorized by the laws of the United States or the Territory to make loans on the security of real estate, also any department or agency of the United States or the Territory authorized to make loans on the security of real estate.

In case any loan is made by a qualified institution to a person holding a houselot on a special homestead agreement, and such loan is approved by the commissioner and the governor, then notwithstanding any provision of law for forfeiture of such special homestead agreement the commissioner shall, upon rehomesteading of such lot, set apart in a special deposit in the treasury the proceeds of the improvements on such houselot, and the treasurer shall pay the same over to such qualified institution in such amount as is required to satisfy the loan, the remainder, if any, to be paid to the retiring homesteader if the agreement was surrendered and all the conditions of the surrendered agreement, to be performed by the homesteader up to the time of the surrender, shall have been substantially performed. It shall be the duty of the commissioner, in case of default by any person in the performance of any obligation so approved, and he shall have the right, to take possession of the premises and thereby determine the estate of such person, the same as if he had defaulted in the performance of a condition of the special homestead agreement. It further shall be the duty of the commissioner to reallot any houselot in his possession, the proceeds of which are applicable to the

satisfaction of an approved loan, if there is a qualified applicant for such houselot. In case of a default on an approved loan the institution concerned may bring proceedings in its own name to enforce the return of the land to the commissioner.

Loans, to be eligible for such approval, shall be only for the purpose of making improvements on the houselot concerned. The commissioner, before approving such loans, may impose such terms and conditions as he considers necessary, including without prejudice to the generality of the foregoing, requirements as to the types of improvements to be made and as to the submission of the plans and specifications therefor for his approval.

In addition to the provisions hereinabove made for satisfaction of such an approved loan from the proceeds of improvements, it is further provided that the commissioner and governor may agree that there shall be paid to the qualified institution making the loan from the payments made by the new homesteader on account of the purchase price of the land, upon rehomesteading thereof, such amount, required to satisfy the loan, as shall not exceed the payments of principal made to the commissioner by the retiring homesteader.

For the purposes of any law of the Territory with respect to loans and investments, such an approved loan shall be deemed secured by real estate of the value of the improvements, to which value shall be added the amount, if any, payable by the commissioner from the proceeds of the land upon the rehomesteading thereof."

Section 3. The Congress of the United States is hereby requested to enact legislation authorizing the administrator of veteran's affairs and all other officers and agencies of the United States, and all institutions subject to the supervision of the federal government, which are empowered by law to make, insure or guarantee loans on the security of real estate, to make, insure, or guarantee, as the case may be, loans secured in the manner provided by section 4565.01 of the Revised Laws of Hawaii 1945, as and when made effective through the approval by the Congress of the United States of the provisions of Senate Joint Resolution 8 of the Twenty-fourth Legislature of the Territory of Hawaii. The legislature hereby declares its intention and desire to provide a means whereby qualified applicants may obtain houselots from the public lands, and may finance the building of homes thereon. In the event that the Congress does not approve the making, insuring or

guaranteeing of loans to holders of houselots on special homestead agreements, as requested by this joint resolution, then it is the intention and desire of the legislature that the provisions of section 73 (1) of the Hawaiian Organic Act, whereby lots may be purchased for residence purposes without homesteading thereon, be continued in effect.

Section 4. Certified copies of this Joint Resolution shall, upon its approval, be forwarded to the Secretary of the Interior, the Delegate to Congress from Hawaii, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

Section 5. This Joint Resolution shall take effect upon its approval.

(Approved May 26, 1947.) **S.J.R. 8, J.R. 25.**

1947 SUPPLEMENT

Containing sections that have been amended but require rewriting to show present status affecting:

A. **Retirement** chapter 15, sections 701-710;
B. **Taxation.**

Arranged in sequence of R. L. 1945.

CHAPTER 15: RETIREMENT SYSTEM.

Note: sections 701-710, have been partially amended by several acts appearing in L. 1945 and L. 1947. As so amended, these sections now read:

Sec. 701. Definitions. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

"Accumulated contributions": the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund together with regular interest thereon as provided in sections 711 and 712.

"Annuity": payments for life derived from the accumulated contributions of a member. All annuities shall be paid in equal monthly installments.

"Annuity reserve": the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity granted under this chapter upon the basis of such mortality tables as shall be adopted by the board and regular interest.

"Average final compensation": the average annual compensation, pay or salary earnable by a member (a) during any period of five consecutive years of service as an employee at the option of the employee, or (b), if he has had less than five years of service, then during his actual years of service.

"Beneficiary": any person in receipt of a pension, an annuity, a retirement allowance or other benefit under this chapter.

"Board": the board of trustees created by section 707.

"County": includes city and county and the board of water supply, city and county of Honolulu.

"Creditable service": prior service plus membership service.

"Employee": any regular and permanent employee or officer of the Territory or any county whose business is devoted exclusively to the service of the Territory or county, including inspectors, principals, teachers and special teachers regularly employed in the public schools. The board shall determine who are employees within the meaning of this chapter.

"Medical board": the board of physicians provided for in section 707. subsection 12.

"Member": any person included in the membership of the system as provided in section 703.

"Membership service": service for which credit is provided for by section 704, subsections 3 and 5.

"Pensions": payments for life derived from money provided by the Terri-

tory or county, as the case may be. All pensions shall be paid in equal monthly installments.

"Pension reserve": the present value of all payments to be made on account of any pension or benefit in lieu of any pension granted under this chapter upon the basis of such mortality tables as shall be adopted by the board and regular interest.

"Prior service": service for which credit is provided for by section 704, subsection 2.

"Prior service certificate": certificate certifying the length of prior service of a member, including a membership certificate issued under the provisions of section 705 which contains a statement of the length of prior service.

"Regular interest": interest at four per centum per annum, compounded annually.

"Retirement allowance": the sum of the annuity and the pension or any benefits in lieu thereof granted to a member upon retirement.

"Service": service as an employee paid by the Territory or county.

"System": the Employees' Retirement System of the Territory. [L. 1925, c. 55, s. 1; am. imp. L. 1927, c. 251, especially ss. 1, 2, 5; am. L. 1929, c. 96, s. 19; R. L. 1935, s. 7920; am. imp. L. 1937, c. 235; R. L. 1945, s. 701; am. L. 1945, c. 73, s. 1; L. 1947, c. 85, s. 1.]

Sec. 702. System established: name. A retirement system is established and placed under the management of the board for the purpose of providing retirement allowances for employees. It shall have the powers and privileges of a corporation and shall be known as the "Employees' Retirement System of the Territory of Hawaii," and by such name may sue or be sued, all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. [L. 1925, c. 55, s. 2; am. imp. L. 1927, c. 251, ss. 1, 2, 5; R. L. 1935, s. 7921; am. L. 1935, c. 48, s. 3; R. L. 1945, s. 702.]

Sec. 703. Membership. 1. Except as otherwise provided in this section, all employees of the Territory or any county on July 1, 1945, shall be members of the system on such date, and all persons who shall thereafter enter or re-enter the service of the Territory or any county shall become members at the time of their entry or re-entry. No member shall receive any pension or retirement allowance from any other pension or retirement system supported wholly or in part by the Territory or any county.

2. An employee whose membership in the system was contingent in his own election and who elected not to become a member shall apply for and be admitted to membership before April 1, 1946.

3. The board may deny the right to become members to any class of elected officials or to any class of part time employees, or it may, in its discretion, make optional with persons in any such classes their individual entrance into membership; **provided,** that no officer or employee entering service after January 1, 1928, who is entitled to become a member of any pension fund under the provisions of chapter 121, part I, shall be entitled to become a member of the system.

4. Should any member having less than five years of creditable service be absent from service more than five years, or should any member withdraw

his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member.

5. It shall be the duty of the head of each department of the territorial government and of the payroll officers or similar officials of each county to submit to the board a statement showing the name, title, compensation, duties, date of birth and length of service of each member and such information regarding other employees as the board may require. The board shall classify each member in one of the following groups:

Group 1. General employees, including administrative, clerical, professional and technical workers; mechanics, laborers and all others not otherwise classified.

Group 2. Teachers, including all teachers regularly engaged in the public schools whose salaries are wholly or partly paid by the Territory.

Or in any other group of not less than two hundred fifty members which may be recommended by the actuary on the basis of the service and mortality experience and approved by the board, to cover part of any group or groups previously created or any additional classes of employees. [L. 1925, c. 55, s. 3; am. L. 1927, c. 223, s. 1; am. imp. L. 1927, c. 251, ss. 1, 2, 3, 5; am. imp. L. 1929, c. 190, s. 1; R. L. 1935, s. 7922; R. L. 1945, s. 703; am. L. 1945, c. 73, s. 1, (b); am. L. 1947, c. 103, s. 1.]

Sec. 703.01. Salary partly from federal funds. Where any territorial employee, subject to the classification law, has a portion of his or her salary paid from federal funds but is not subject to the federal retirement system, such employee shall be entitled to all benefits and be required to make all employee contributions under the Employees' Retirement System of the Territory of Hawaii based upon the full salary received by such employee, including that portion of the salary paid from federal funds. [L. 1945, c. 25, s. 1.]

Sec. 704. Service creditable. 1. Under such rules and regulations as the board may adopt and subject to such exceptions as the board may provide, each employee who on July 1, 1945, is a member, or thereafter shall become a member prior to July 1, 1947, shall file, on or before July 1, 1947, a detailed statement of all service as an employee rendered by him prior to the filing thereof for which he claims credit. Service credit may be claimed for membership service and prior service, or membership service only.

2. Prior service shall include (a) service as an employee rendered (1) by an employee of the Territory prior to January 1, 1926, or (2) by an employee of any county prior to January 1, 1928, (b) service in a similar capacity paid for by the Republic of Hawaii or by the preceding provisional or monarchial governments, (c) all service creditable to him under any other retirement system supported wholly or in part by the Territory at the time he became a member of this system, (d) periods of honorable service in the army, navy, marine corps, coast guard and public health service of the United States at any time between the dates of April 5, 1917, and July 2, 1920, which service necessitated separation at the time of its inception from existing territorial or county employment, and (e) service as an employee during the period from January 1, 1926, to December 31, 1927, in the case of a member who became an employee of the Territory during said period, was in the regular employ

of any county immediately prior and up to the time he became a territorial employee and was an employee of the Territory on January 1, 1928.

3. Membership service shall include (a) service as an employee rendered since becoming a member and (b) service rendered prior to becoming a member but (1) subsequent to January 1, 1926, by an employee of the Territory or (2) subsequent to January 1, 1928, by an employee of any county; **provided,** however, that service credited or creditable as prior service shall not be included; and **provided,** further, that membership service shall not be credited for any period which is not covered by the contributions of the member to the annuity savings fund as provided by section 712, except as otherwise provided in subsection 5 of this section.

4. The board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to a year of service but in no case shall more than one year of service be credited for all service in one calendar year, nor shall the board allow credit as service for any period of more than one month's duration during which the employee was absent without pay.

5. Subject to the above restrictions and to such other rules and regulations as it may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed. If membership service shall be claimed in such statement for service by a member rendered prior to his becoming a member, or in the case of a member who was separated from service after having become a member, rendered prior to his last entry into service, the board shall cause to be determined (a) the amount which should be in the annuity savings fund to the credit of the individual account of the member on the date of such statement to cover the period or periods of service claimed as membership service, excluding interest for any period during which he was separated from service, (b) the amount of accumulated contributions actually to his credit on such date, and (c) the difference between the two amounts, and shall thereupon credit him with membership service for such period or periods of service on condition that within thirty days after notification of the amount of the deficiency in his contributions, or prior to July 1, 1947, whichever is later, but in no event later than December 31, 1947, he shall notify the board in writing of his election to pay such deficiency, and thereafter make payment of the amount of the deficiency in his accumulated contributions. Upon the payment of such deficiency, in a lump sum or in installments in such amounts and on such terms as the board may provide, such service shall constitute creditable membership service at retirement or death; **provided,** however, that if such deficiency is not paid up in full at the time of retirement or death, credit shall be allowed in the same proportion that the amount paid-in bears to the amount payable on account of such deficiency.

6. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service and his prior service, if any, as provided in this section, except that the cost of benefits arising from the crediting of prior service and membership service which was not creditable prior to July 1, 1945, and for which no provision is made in the regular normal and deficiency contributions to the pension

accumulation fund, shall be covered by special contributions by the Territory and benefits payable on account of such credits shall be limited to the amounts received therefor. [L. 1925, c. 55, s. 4; am. L. 1927, c. 223, s. 2; am. imp. L. 1927, c. 251, ss. 1, 2; am. imp. L. 1929, c. 190, s. 1; am. imp. L. 1931, c. 219, ss. 1, 2, 3; R. L. 1935, s. 7923; am. L. 1935, c. 48, s. 6; L. 1937, c. 235, s. 1; R. L. 1945, s. 704; am. L. 1945, c. 73, s. 1 (c); am. L. 1947, c. 140, s. 1.]

Sec. 704.01. Service while legislative employee. Where any territorial or county employee subject to the classification law takes leave of absence to be employed by the legislature during any legislative session, such employee shall be entitled to all benefits and required to make all employee contributions under the employees' retirement system of the Territory of Hawaii for the period during which such employee worked for the legislature. [L. 1947, c. 58, s. 1.]

Sec. 705. Membership certificate. 1. Upon verification of the statement of service filed in accordance with the provisions of section 704, the board shall issue a membership certificate which shall consist of (a) a statement of the length of (1) prior service and (2) membership service rendered prior to the date thereof by the member to whom it is issued and (b) a certificate of participation as evidence of his contract with the system, and of his right in the reserves created and held by the trustees as a result of his own contribution and the contribution of his employer, on his account, which reserves and the interest thereon, shall only become payable to him to the extent and under the conditions set forth in this chapter at the time such certificate is issued. So long as membership continues such membership certificate shall be final and conclusive for retirement purposes as to such service; **provided,** however, that any member may, within one year from the date of issuance, request the board to modify or correct the same. When membership ceases such membership certificate shall become void.

2. Any prior service certificate or membership certificate issued prior to July 1, 1945 and in full force and effect on such date shall remain in full force and effect, subject, however, to the provisions and conditions thereof and to the provisions and conditions set forth in this chapter as it existed at the time such certificate was issued; **provided,** further, that the board, in its discretion, may replace any such certificates by requiring the surrender thereof and issuing in place thereof membership certificates as provided for by subsection 1 of this section; **provided,** further, that upon the issuance of a membership certificate in accordance with the provisions of subsection 1 of this section, the member to whom such new certificate is issued shall surrender any prior service certificate or membership certificate issued theretofore; and **provided,** further, that the prior service credit certified in any valid prior service certificate shall not in any case be reduced upon the replacement of such certificate. [L. 1935, c. 48, s. 6; R. L. 1945, s. 705; am. L. 1945, c. 73, s. 1 (d); am. L. 1947, c. 140, pt. of s. 1.]

Sec. 706. Evidence of age of members required. Upon an employee first becoming a member of the system, he shall present evidence of his age in the form of a public record of his birth or church baptismal record or such

affidavits by the member and other persons as the board may require to show that such records are not available and to show the date upon which the member was born.

No statement or record of age or birth made or presented by a member of the system may be impeached by such member or his successors in interest. [L. 1941, c. 225, s. 1; R. L. 1945, s. 706.]

Sec. 707. Administration; appointment of board, etc. 1. The general administration and the responsibility for the proper operation of the system and for making effective the provisions of this chapter are vested in a board of trustees.

2. The board shall consist of five trustees as follows: (a) the treasurer of the Territory, ex-officio; (b) two members of the system to be elected by the members of the system, under such rules and regulations as may be adopted by the board to govern such election, to serve for terms of four years each, one of such terms to expire on January 1 of each fourth year commencing January 1, 1948 and the other to expire on January 1 of each fourth year commencing January 1, 1950, or until their successors are elected and qualified; **provided,** however, that at the first election held in 1947, the member receiving the highest number of votes at such election shall serve for a term to expire January 1, 1952, and the member receiving the second highest number of votes at such election shall serve for a term to expire January 1, 1950; and (c) two citizens of the Territory who are not employees, one of whom shall be a responsible officer of a bank authorized to do business within the Territory, or a person with similar experience, to be appointed by the governor to serve for terms of four years each, one of such terms to expire January 1 of each fourth year commencing with January 1, 1927, and the other to expire each fourth year commencing with January 1, 1929, such trustees to take office at appointment.

3. **Vacancy.** If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office previously filled, except in case of the trustee elected by the members, in which latter case the vacancy may be filled for the unexpired term by the appointment of a member by the remaining trustees of the board.

4. **Expenses of trustees.** The trustees shall serve without compensation, but they shall be reimbursed from the expense fund for all necessary expenses and for any loss of salary or wages they may suffer through serving the board.

5. **Oath of trustees.** Each trustee shall, within ten days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system. Such oath shall be subscribed to by the member making it, and certified by the officer before whom it is taken, and shall be immediately filed in the office of the secretary of the Territory.

6. **Three votes necessary.** Each trustee shall be entitled to one vote in the board. Three votes shall be necessary for a decision by the trustees at any meeting of the board.

7. **Rules.** Subject to the limitations of this chapter the board shall, from time to time, establish rules and regulations for the administration of the funds of the system and for the transaction of its business.

8. **Chairman; secretary; actuary; employees.** The board shall elect from its membership a chairman and shall by a majority vote of all its members appoint a secretary, who may but need not be one of its members. It shall engage such actuarial and other service as shall be required to transact the business of the system. The compensation of all persons engaged by the board, and all other expenses of the board necessary for operation of the system shall be paid at such rates and in such amounts as the board shall approve.

9. **Actuarial data.** The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the system and for checking the experience of the system.

10. **Records.** The board shall keep a record of all of its proceedings which record shall be open to public inspection. It shall publish annually on or before January 1 a report showing in detail the fiscal transactions of the system for the year ending on the preceding June 30th, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the system. The board shall submit such report to the governor and shall furnish copies thereof to the heads of the various departments of the Territory and counties for their use and the use of the members employed therein.

11. **Legal adviser.** The attorney general shall be the legal adviser of the board.

12. **Medical board.** The board shall designate a medical board to be composed of three physicians not eligible to participate in the system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter, shall investigate all essential statements and certificates by or on behalf of a member in connection with application for disability retirement, and shall report in writing to the board its conclusions and recommendations upon all the matters referred to it.

13. **Duties of actuary.** The actuary shall be the technical adviser of the board on the matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.

14. At least once in each five-year period, commencing with the year 1929, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the assets and liabilities of the funds of the system and, taking into account the result of such investigation and valuation, the board shall: (a) adopt for the system such mortality, service and other tables as shall be deemed necessary; (b) certify the rates of contribution payable by members; and (c) certify the rates of contribution payable by each county and the Territory, respectively, on account of new entrants at various ages who are employees of such county or the Territory.

15. On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system. [L. 1925, c. 55, s. 5; am. imp. L. 1927, c. 251; R. L. 1935, s. 7924; R. L. 1945, s. 707; am. L. 1947, c. 85, pt. of s. 1.]

Sec. 708. Benefits. 1. **Service retirement benefit.** Retirement of a member on a service retirement allowance shall be made by the board as follows: (a) any member may retire upon his written application to the board setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired; **provided** that such member at the time so specified for his retirement shall have attained the age of sixty years, and notwithstanding that, during such period of notification, he may have been separated from service; **provided,** further, that a member who has attained the age of fifty-five years or has had thirty years of creditable service, even though separated from service, may at their election retire and receive a retirement allowance consisting of his annuity, computed as provided in subsection 2 (a) of this section, and a pension and additional pension, if entitled thereto, having a value equal to the present worth of a deferred pension beginning at the age of sixty years computed as provided in subsections 2 (b) and (c) of this section; (b) each member who attains the age of seventy years, shall be retired on the first day of the calendar month next succeeding that in which he shall have attained such age.

2. **Allowance on service retirement.** Except as otherwise provided in subsection (a) of this section, upon retirement for service a member shall receive a service retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension, in addition to his annuity, which shall be equal to one one-hundred fortieth of his average final compensation multiplied by the number of years of his membership service; and (c) if he has a prior service certificate in full force and effect, an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

3. **Ordinary disability retirement benefit.** Upon the application of a member or of the head of his department, any member who has had ten or more years of creditable service shall be retired by the board, not less than thirty and not more than ninety days next following the date of filing such application, on an ordinary disability retirement allowance; **provided** that the medical board after a medical examination of such member shall certify that he is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

4. **Allowance on disability retirement.** Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty years; otherwise he shall receive a disability retirement allowance which shall consist of (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (b) a pension which together with his annuity, shall be equal to ninety per centum of one-

seventieth of his average final compensation multiplied by the number of years allowable to him (1) for the total service actually rendered by him if such retirement allowance exceeds one-quarter of his average final compensation, otherwise, (2) for the total service which would be rendered by him were his service to continue until attainment of the age of sixty years, so far as the resulting total retirement allowance shall not exceed one-quarter of his average final compensation.

5. **Accidental disability benefit.** Upon application of a member, or of the head of his department, any member who has been totally and permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, through no negligence on his part, shall be retired by the board; **provided** that the medical board shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

6. **Allowance on accidental disability retirement.** Upon retirement for accidental disability a member shall receive a retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension in addition to the annuity of sixty-six and two-thirds per centum of his average final compensation.

7. **Re-examination of beneficiaries retired on account of disability.** Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by a physician or physicians designated by the medical board. Should any disability beneficiary who has not yet attained the age of sixty years refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to such retirement allowance may be revoked by the board.

(a) Should the medical board report and certify to the board that such disability beneficiary is engaged or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; **provided** that the new pension shall not exceed the amount of the pension originally granted nor an amount, which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensa-

tion. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the system.

(b) Should a disability beneficiary be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, he shall again become a member of the system, and he shall contribute to the fund thereafter at the same rate he paid prior to disability. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition upon his subsequent retirement he shall be credited with all his service as a member.

8. **Ordinary death benefit.** Upon the receipt of proper proofs of the death of a member there shall be paid to his estate or to such person having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board: (a) his accumulated contributions and, if the member has had one or more years of creditable service, and no pension be payable under the provisions of subsection 9 of this section, in addition thereto, (b) an amount equal to fifty per centum of the compensation earnable by him during the year immediately preceding his death.

9. **Accidental death benefit.** Upon the receipt of proper proofs of the death of a member by the board there shall be paid to the member's designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that such death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board shall decide that the death was the result of an accident in the performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the ordinary death benefit provided by the contributions of the Territory or county, a pension of one-half of the average final compensation of such employee, (a) to his widow, to continue during her widowhood; or (b) if there be no widow, or if the widow dies or remarries before any child of such deceased member shall have attained the age of eighteeen years, then to his child or children under said age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half his final compensation until every child dies, or attains said age; or (c) if there be no widow or child under the age of eighteen years surviving such deceased member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there be no such nomination, then to his dependent father or to his dependent mother as the board in its discretion shall direct, to continue for life.

10. **Return of accumulated contributions.** (a) Any member who shall cease to be an employee, except by death or retirement, upon demand made in writing within five years from the time he ceases to be an employee, shall be paid all his accumulated contributions. (b) Any member who shall cease to be a member by reason of his absence from service for more than five years and who has less than five years of creditable service, shall thereupon be paid

all his accumulated contributions. (c) In case of the death of any member after termination of service, his accumulated contributions shall be payable to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board.

11. **Optional allowances.** With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement allowance payable throughout life or he may elect to receive the actuarial equivalent, at that time, of his retirement allowance in a lesser retirement allowance, payable throughout life with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and be paid to such person as he shall nominate by written designation duly acknowledged and filed with the board at the time of his retirement

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and be paid to such person as he shall nominate by written designation duly acknowledged and filed with the board at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board.

12. **Pensions offset by compensation benefits.** Any amounts which may be paid or payable by the Territory or any county under the provisions of any workmen's compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against and payable in lieu of any benefits payable out of funds provided by the Territory or county under the provisions of this chapter on account of the same disability or death. In case the present value of the total commuted benefits under any workmen's compensation or similar law is less than the pension reserve on the benefits otherwise payable from funds provided by the Territory or county under this chapter, then the present value of the commuted payments shall be deducted from the pension reserve and such benefits as may be provided by the pension reserve so reduced shall be payable under the provisions of this chapter.

13. Any member whose membership shall continue notwithstanding his separation from service shall be eligible for the service retirement benefit only, which shall be payable only in accordance with the provisions relating thereto. [L. 1925, c. 55, s. 6; am. imp. L. 1927, c. 251, ss. 1, 4, 5; am. imp. L. 1933, c. 181; am. imp. L. 1933-34, c. 10, s. 3; R. L. 1935, s. 7925; am. L. 1935,

c. 48, s. 2; R. L. 1945, s. 708; am. L. 1945, c. 73, s. 1; am. L. 1947, c. 85, s. 1; am. L. 1947, c. 103, s. 1; am. L. 1947, c. 140, s. 1.]

Sec. 709. Minimum service retirement allowances. 1. **Minimum amount.** Each of the retired employees of the several counties and of the Territory who shall have been in the service and employ of any of the counties or of the Territory for a total period of not less than ten years, who is a member of the system, and who is receiving a service retirement allowance of less than thirty dollars per month, shall be paid from the fund hereinafter created, an amount which, together with such service retirement allowance, shall equal the sum of thirty dollars per month.

2. **Duties of board.** The board shall certify to the boards of supervisors of the several counties, prior to June 30, 1943, and from time to time thereafter as changes may occur, a list of members of the system who are retired employees of such respective counties who shall have been in the service and employ of such respective counties for a total period of not less than ten years and who receive a service retirement allowance of less than thirty dollars per month, together with the amount of service retirement allowance which such employees do receive, and a total of the monthly additional sums necessary to make to such employees payments of thirty dollars per month. Payments from such fund shall be made by the treasurer only upon vouchers signed by the chairman of the board and countersigned by such other person as may be designated by the board.

3. **Minimum pension fund.** A separate fund, known as the "minimum pension fund" is hereby established from which the payments provided in this section shall be made. Appropriations made by the legislature for the purposes of this section shall be covered into said fund.

4. **Counties' contributions to fund.** The boards of supervisors of the several counties, upon certification to them by the board of the amounts necessary to meet the payments to their employees provided under this section, shall forthwith remit the amount thereof to the territorial treasurer who shall cover said amounts as received into the minimum pension fund. Remittances shall be made not later than December 30 of each year and shall be sufficient for twelve months' payments to the employees certified to such board of supervisors. Remittances for any certified additions to lists shall be made forthwith, upon receipt of such certified additions and shall be sufficient for the remainder of the period for which remittances have already been made by such board of supervisors for the list of employees to which such additions are certified. [L. 1943, c. 130, ss. 1, 2, 3, 4; R. L. 1945, s. 709.]

Sec. 710. Custody and investment of funds; protection of securities. 1. **Board trustees of funds.** The board shall be trustees of the several funds of the system as provided in section 712 and shall have full power to invest and reinvest such funds as authorized by said section and by law from time to time provided. Subject to the terms, conditions, limitations and restrictions of this section and by law from time to time provided, the trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have

been invested, as well as of the proceeds of the investments and any moneys belonging to the funds.

2. **Investments.** Investments may be made in:

(a) Real Estate. Such real estate as may be conveyed to it by way of mortgage, or in trust or otherwise, to secure or provide for the payment of loans previously contracted or moneys due; such real estate as may be purchased at sales upon foreclosure of mortgages or under trust or in enforcing any security or under judgments or decrees obtained for loans, debts or claims due it, or on executions issued upon judgments or decrees; and such real estate as may be conveyed to it in satisfaction of debts previously contracted in the course of its dealings. All real estate acquired at sales upon foreclosure of mortgages or otherwise must be sold and disposed of within five years after acquiring title to the same; **provided,** that the governor may, for cause shown, extend this time for periods not exceeding five years each.

(b) **Secured bonds.** Bonds and notes secured by first mortgages or deeds of trust on unencumbered improved real estate owned in fee simple worth at least sixty-five per centum more than the respective amount of the first mortgages or deeds of trust; **provided** that no building shall be included in such value beyond the amount of the insurance thereon for which a policy shall have been transferred to the board, such policy to be kept in force as long as the loan continues.

(c) **Government obligations.** Bonds and other direct obligations of the United States or of the Territory or any political or municipal subdivision thereof, or of any state, county, city, town, township or school district within the United States, either having a population of fifty thousand inhabitants or over, or whose indebtedness, deducting sinking funds available for the payment thereof, does not exceed ten per centum of the valuation of property therein as assessed next preceding the date of the investment; or in any such securities which are guaranteed as to principal and interest by the United States, by the Territory or by any state within the United States.

(d) **Revenue bonds.** Revenue bonds of the Territory and of all political or municipal subdivisions now or hereafter created in the Territory, including the board of water supply of the city and county of Honolulu.

(e) **Corporate obligations.** Bonds and other direct obligations of any corporation located in the Territory or wholly or principally in the United States, which has been a going concern for at least ten years, the capital stock of which equals at least one-third of its funded indebtedness, and which for the ten years preceding the date of the investment has regularly paid all interest charges upon all funded indebtedness outstanding, and for the five years preceding the date of the investment has regularly earned, after deducting proper charges, at least three per centum upon all issues of its paid up capital stock; and bonds and other direct obligations of any railroad, railway, or terminal corporation which have been, both as to principal and interest, assumed or guaranteed by any such corporation.

(f) Bonds, debentures, and notes issued by any federal home loan bank or consolidated federal home loan bank bonds, notes or debentures.

(g) Bonds of the home owners' loan corporation.

(h) Notes or bonds secured by mortgages insured by the federal housing administrator and securities issued by national mortgage associations organized under Title III of the Acts of Congress, entitled "National Housing Act."

(i) Loans secured by collateral security consisting of any of the above worth at least fifteen per centum more than the amount of the loan.

(j) **Preferred stocks.** Preferred stocks of any corporation located in the Territory or wholly or principally in the United States; **provided,** however, that said preferred stocks shall be cumulative as to dividends; **provided,** further, that the common stock and surplus of the corporation issuing preferred stocks equals at least one-third of the total of the funded indebtedness and preferred stock, and also, that such corporation, for the ten years preceding the date of the investment, has regularly paid all interest charges and dividends, upon all funded indebtedness and preferred stock outstanding, and for that period has regularly earned, after deducting all proper charges, at least three per centum upon all issues of its paid up capital stock, including both preferred and common stock; **provided,** further, that the total investment in qualified preferred stocks shall at no time exceed five per centum of the total book value of all investments of the system.

(k) Any bonds made eligible by law for purchase in the open market by the federal reserve banks of the United States.

3. **Service charges.** The board may pay out of any of the several funds held for investments a reasonable amount to any person, firm or corporation for the servicing and handling of eligible mortgages purchased by the board.

4. **Power to make agreements to protect securities on reorganization or otherwise.** Any thing contained in this chapter to the contrary notwithstanding, the board shall have full power and authority to enter into an agreement or agreements for the purpose of protecting the interests of the system in securities held by the system, or for the purpose of reorganization of a corporation which issued securities so held, and deposit such securities with a committee or depositories appointed under such agreement; but such agreement and deposit of securities thereunder must first be approved in writing by a majority of the members of the board with a statement of their reasons for such approval. The board is fully authorized and empowered to accept corporate stock or bonds or other securities, which may be distributed pursuant to any such agreement approved as aforesaid or to any plan of reorganization approved in writing by a majority of the members of the board with a statement of their reasons for such approval. But if any securities so received shall consist in whole or in part of stock in any corporation or of bonds or obligations which shall not be secured by adequate collateral security or where less than two-thirds of the total value of the required collateral security therefor shall consist of collateral other than stock, then any stock and any such bond or obligation so received shall be disposed of within five years from the time of their acquisition or before the expiration of such further period or periods of time as may be fixed in writing for that purpose by the governor. [L. 1925, c. 55, pt. of s. 7; am. imp. L. 1927, c. 251, s. 4; R. L. 1935, pt. of s. 7926; L. 1935, c. 156, ss. 1, 2; am. L. 1939, c. 5, s. 1; am. L. 1941, c. 50, s. 1, and c. 61, s. 1; R. L. 1945, s. 710; am. L. 1947, c. 233.]

Title 14: TAXATION

Guide to Amendments in 1945 and 1947

Chapter 94: Administration and Real Property

§ 5101. **AM.** in toto, L. 1945, c. 79 (A-91), s. 1, p. 165: ('45, Tax Code, p. 5.)

§ 5104. Am. L. 1945, c. 79, see pp. 167-169 of 1945: ('45, Tax Code, p. 5-6.)

§ 5105. Am. L. 1945, c. 79 (A-91) s. 3, p. 169: ('45, Tax Code, p. 7.)

§ 5107. Am. L. 1945, c. 79 (A-91) s. 4, p. 169: ('45, Tax Code, p. 7.)

§ 5108. Am. L. 1945, c. 79 (A-91) s. 5, p. 169: ('45, Tax Code, p. 7-8.)

§ 5110.01. New L. 1945, c. 196 (A-92), s. 2, p. 171-2; ('45, Tax Code, p. 8.)

§ 5114. Am. L. 1945, c. 79 (A-91), s. 6, p. 169: ('45, Tax Code, p. 9.)

§ 5137. Am. L. 1945, c. 79, s. 7, p. 169: ('45, Tax Code, p. 14.)

§ 5140. **AM.** in toto, L. 1945, c. 79, s. 8, p. 169-70: ('45, Tax Code, p. 15.)

"**Sec. 5145. Maps.** The commissioner shall provide for each taxation division and district, maps drawn to appropriate scale, showing all parcels, blocks, lots or other divisions of land based upon ownership, and their areas or dimensions, numbered or otherwise designated in a systematic manner for convenience of identification, valuation and assessment. Such maps, as far as possible, shall show the names of owners of each division of land, and shall be revised from time to time as ownerships change and as further divisions of parcels occur. [L. 1932, 2d, c. 40, s. 35; R. L. 1935, s. 1932; R. L. 1945, s. 5145; am. L. 1947, c. 8, s. 1.]"

[See s. 151, taxation districts.]

§ 5146. Am. L. 1945, c. 79 (A-91), p. 170 (see note): ('45, Tax Code, p. 16.)

§ 5147.01. New L. 1945, c. 243 (A-93), s. 1, p. 172: ('45, Tax Code, p. 16-17.)

Sec. 5150-A. [Exemption, persons with impaired sight.] Any person whose sight is impaired to the extent of seventy-five percent or more, shall, so long as his sight is so impaired, be exempted from real property taxes on all real property owned by him up to, but not exceeding, a taxable value of ten thousand dollars. The impairment of sight shall be certified by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose. [L. 1947, c. 213, s. 7.]

Sec. 5151. Am. L. 1945, c. 234, c. 224, c. 221, pp. 173-4; ('45, Tax Code, pp 18-22); also **L. 1947:**

28. The property belonging to the Lutheran Church of Honolulu, situated on Alani Drive, Honolulu, city and county of Honolulu, designated and used as the parsonage or residence of the pastor of the church, so long as the same shall be so used. [Am. L. 1947, c. 149, s. 1.]

§ 5154. Am. L. 1945, c. 88 (A-97), s. 1, p. 174: ('45, Tax Code, p. 22-3.)

§ 5167. Am. L. 1945, c. 220 (A-98), s. 1, pp. 175-7: ('45, Tax Code, p. 27-8.)

Chapter 95: Appeals

§ 5217. AM. in toto, L. 1945, c. 92 (A-99), p. 178: ('45, Tax Code, p. 37.)

§ 5218. AM. in toto, L. 1945, c. 92, s. 2: ('45, Tax Code, p. 37.)

Chapter 96: Budgets

Sec. 5251. Definitions. Wherever used in this chapter:

"Board" shall mean the board of supervisors of each county concerned.

"Property" or "real property" shall have the meaning defined by section 5101.

"Liquid fuel" or "fuel" shall have the meaning defined by section 5401. [R. L. 1945, s. 5251; am. L. 1947, c. 111, s. 4.] (Effective January 1, 1948.)

Sec. 5252. Real property tax, determination of rate. (a) The board of supervisors of the county of Hawaii and the county of Kauai shall submit to the treasurer on or before March 31, of each year (except as provided in the next section) a budget showing the estimated receipts and estimated expenditures of such county during and for such year in substantially the following form:

[Sec. 5252, continued]

COUNTY OF .....

BUDGET FOR THE CALENDAR YEAR .....

Item No.	Estimated Expenditures	COLUMN I	COLUMN II Amounts deductible from, or otherwise available for respective items.	COLUMN III Itemized amounts to be raised from property tax or from county's share of general excise tax.
(1)	**Territorial bonds** issued for county purposes (interest on serial bonds, and principal of all serial bonds maturing the following year), except bonds issued prior to January 1, 1945, for **highway purposes**	.....	.....	.....
(2)	General **county bonds** (interest on term and serial bonds, sinking fund for term bonds and principal of all serial bonds maturing the following year), except bonds issued prior to January 1, 1945 for **highway purposes**	.....	Water-revenues, etc.	.....
(3)	**Schools,** special fund.....	.....	.....	.....
(4)	**County contributions** specifically required by law to institutions	.....	.....	.....
(5)	**County contributions** to the Employees' Retirement System of the Territory.....	.....	.....	.....
(6)	Other county items **fixed by law**	.....	.....	.....
(7)	**Permanent improvements and current and operating expenses**	.....	.....	.....
(8)	County's share of **general excise tax**		.....	
(9)	Totals	.....	.....	.....
(10)	Amount to be raised by real property tax			.....
	OTHER ESTIMATED COUNTY REVENUES AND EXPENDITURES			.....

[Amended by L. 1947, c. 111, s. 4]

Bond funds. For item (1) under column 1 the treasurer, on or before January 31 of each year, shall compute and submit to the board of supervisors of each county the amounts which are payable to or retainable by the Territory for such county for that calendar year to meet interest charges for serial bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by the Territory for county purposes (except bonds issued prior to January 1, 1945 for highway purposes).

For item (2) under column I the board of supervisors of each county shall compute the amounts payable by such county for such calendar year to meet interest charges for term and serial bonds, sinking fund charges for term bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by such county (except bonds issued prior to January 1, 1945 for highway purposes).

School funds. For item (3) under column I the amount for such county shall be the amount of the special school fund budget for such county for such calendar year itemized in the manner specified in section 1802.

County contributions. For item (4) under column I the board of supervisors of each county shall compute the amounts payable, or required to be appropriated or contributed, by such county for such calendar year to or for public or quasi-public institutions, such as hospitals, which payments, appropriations or contributions are by law specifically required of such county.

In item (5) under column 1 the board of supervisors of each county shall include the amount estimated by the board of trustees of the employees' retirement system of the Territory, pursuant to Chapter 15, to be due from such county for such calendar year on account of the employees thereof who are members of the employees' retirement system, which estimate shall be submitted to such board of supervisors by the trustees on or before January 31 of the calendar year.

In item (6) under column I shall be included any additional amount or amounts specified or required by special acts of the legislature relating to the county and which cannot be included in any other item under column 1.

In item (7) under column I shall be included: (a) All items for permanent improvements for the county; and (b) current and operating expenses of the county including, among other items, the operating expenses of the departments of such county, any portion or all of the expenses of operating and equipping sewer and cesspool pumping systems as operated or extended, road maintenance and repair and other current, operating or general needs; **provided,** however, that there shall not be included in said item (7) any amounts for the payment of any charges for interest, sinking fund or principal on any bonds issued for county purposes, any law to the contrary notwithstanding (but nothing herein contained shall be construed to prohibit the use of any general fund moneys for the payment of any bond requirements in the event of subsequently developing shortage of other available moneys therefor).

Under column II there shall be included by the board of supervisors, opposite any item under column I, any amounts which are required or authorized by law to be deducted from, or offset against, the tax rate calculations for such calendar year for such item, representing revenues or other funds available or estimated to be available during the year and applicable on account of such item under column I. Under column II there further shall be set forth the amount of item (8), i.e., the county's share of the general excise tax as estimated by the board of supervisors.

Under column III there shall be included, opposite each of items (1) to (7) of column I, a figure equal to the amount, if any, remaining after deducting or offsetting the amount included under column II of such item from or against the amount included under column I of such item.

For item (9) under columns I and II there shall be stated the totals of the amounts set forth in items (1) to (8) inclusive, under said columns I and II, and for item (9) under column III there shall be stated the amount of the total of column I less the total of column II.

For item (10) under column III there shall be stated all or such portion of the amount of item (9) under column III as is to be raised from real property taxes.

Under the heading **"other estimated county revenues and expenditures"** there shall be included estimates of miscellaneous revenues and estimated expenditures therefrom not included in items (1) to (10)* inclusive, of the budget and any other data bearing on county finance.

[*am. by L. 1947, c. 111, s. 4.]

The budget so prepared shall be approved by a resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, except that such budget may, but need not, be published in a newspaper before final adoption in order to be valid. No such publication shall be made in any newspaper except a daily newspaper published in the county, unless no daily newspaper is published in such county, in which event such publication may be made in any newspaper published in such county. If the budget is submitted earlier than March 31 (or the date provided in the next section), the same may be amended from time to time by resolution similarly adopted and filed with the treasurer on or before such date.

The treasurer shall, on or before May 10 (except as provided in the next section), determine the rate per centum at which the taxable real property in the taxation division in which the county is situated shall be taxed in order to yield the amount set forth in item (10) under column III.

If, however, the amount shown in item (10) under column III of the budget for a county shall exceed, in the case of:

The county of Hawaii, the sum of.....$1,200,000

The county of Kauai, the sum of..... 600,000

the amount shown by the item shall be reduced to the amount last hereinabove stated for such county. No deduction shall be made by the treasurer from any item of such budget.

In determining the real property tax rate the aggregate value of real property as assessed for the purposes of the tax for the current year, with calculations made as of April 20 of assessed values of the current year, shall be taken as a basis. In all cases where appeals are unsettled, the values used shall be the lowest claimed by the taxpayer in each case, plus fifty per centum of the value in dispute.

The rate determined shall forthwith be communicated to the tax commissioner and shall be the rate at which such real property shall be taxed for such calendar year under section 5139 in the taxation division in which is included the county for which the budget is submitted.

In so far as the validity of any tax rate shall be concerned, the provisions of this subsection shall be deemed directory, and no informality and no other defect whatsoever, whether in form or substance, in such budget, shall invalidate or be deemed to invalidate said budget or any tax rate based thereon, so long as the rate fixed pursuant to such budget shall be based on an amount not exceeding the amount set forth hereinabove or otherwise provided by law, as the tax rate limit for such county for real property taxes.

If the board of supervisors shall fail to transmit a budget within the time hereinabove required, the treasurer shall adopt, as a basis for fixing the real property tax rate for the county, a figure equal to ten per centum less than the amount stated in this section as the limit of the amount to be raised for such county by real property taxation.

Any information or estimates necessary to be given to any board of supervisors by any officers, either county or territorial, or by any other persons in order to enable the board to prepare the budget or any item thereof for any calendar year, shall be submitted by such officers or persons to the board not later than January 31 of such year, any other law to the contrary notwithstanding.

(b) In the city and county of Honolulu and the county of Maui the rate at which real property shall be taxed for each calendar year under section 5139 shall be fixed on or before May 15 of each year by resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, provided that the date prescribed for 1947 shall be May 24 instead of May 15. The provisions of this paragraph as to the date for fixing said tax rate shall be deemed directory and failure to adopt such resolution on or before the date hereinabove prescribed shall not invalidate the tax rate. The rate so determined by the board shall forthwith be communicated to the tax commissioner and shall be the rate at which real property shall be taxed for such calendar year under section 5139 in the county concerned; **provided,** that if such rate, applied to the assessed value of the taxable real property in the county for the current year computed according to the provisions of subsection (a) with respect to the basis for determination of real property tax rates, is calculated to yield for said year more than the amount hereinafter set forth, the tax commissioner shall reduce the rate to such rate as will yield the amount hereinafter set forth and shall apply the reduced rate. Such amounts are as follows:

For 1947

In the city and county of Honolulu	$6,000,000
In the county of Maui	850,000

For 1948 and later years

In the city and county of Honolulu	$8,000,000
In the county of Maui	900,000

The board of supervisors of the city and county of Honolulu and the county of Maui shall not be required to submit to the treasurer the complete budget required by subsection (a), but shall, on or before the date required by law for other counties, submit to the treasurer a budget, approved by a resolution of the board of supervisors adopted in the manner provided by law relating to resolutions involving the expenditure of public money, showing the estimated requirements of the county during and for such year for or on account of items (1) to (6) inclusive of the form of county budget prescribed by subsection (a), containing all of the information there required under columns I, II and III for said items (1) to (6) inclusive.

Any information or estimates necessary to be given to the board of supervisors by any officers, either county or territorial, or by any other persons in order to enable the board to prepare the foregoing statement, shall be submitted by such officers or persons to the board not later than January 31 of such year, any other law to the contrary notwithstanding. [R. L. 1945, s. 5252; am. L. 1945, c. 82, s. 3; am. in toto L. 1947, c. 111, ss. 1, 4].

Sec. 5253. Submission of budgets during years legislature meets. The time for the submission of county budgets for taxation purposes as required by section 5252, or section 5255, is hereby extended, for every year in which the legislature meets in regular session, from March 31 to May 15, and any county budget submitted before May 15 in such years may be amended on or before said date in the manner provided by said section 5252. Any act required by said sections 5252 and 5255 to be performed on or before any specified date prior to June 20 in each of said years by any officer or other person specified in said sections 5252 and 5255 shall be valid if performed after such specified date but before June 20 in any such year, any other provisions to the contrary in said sections 5252 and 5255, or in any other law, to the contrary notwithstanding.

In each year in which the legislature meets in regular session, each county shall submit to the legislature, by filing with the director of the bureau of the budget at least twenty days before the convening of the legislature, for transmission by said director to the legislature, the budget of said county for the current calendar year and the next succeeding calendar year. Such budgets shall show estimated receipts as well as estimated expenditures. The form in which such budgets shall be submitted and the itemization thereof shall be as prescribed by the director of the bureau of the budget, who may require the inclusion therein of relevant information concerning the last two completed calendar years. [L. 1941, c. 236, s. 1; R. L. 1945, s. 5253; am. L. 1947, c. 111, s. 2.]

Sec. 5254. Property taxes, disposition of proceeds; county's share of general excise tax. All property taxes (including real and personal* property taxes for any year, whether before or after 1933) shall be paid into the territorial treasury each month within ten days after collection. Out of such taxes paid into the territorial treasury from each county, the treasurer shall retain from time to time in special accounts sufficient amounts for the purposes specified in items (1) and (5), under column III, respectively, of the budget provided for in section 5252, and shall pay the balance thereof to the treasurer of such county, as soon as possible after the same have been paid into the territorial treasury, or after the disposition of any tax appeal, as the case may be, for the purposes specified in items (2), (3), (4) and (6) under column III of the budget, and for the purposes of meeting the other requirements of the county for the year. The county treasurer shall, from time to time, allot from the balance, or from the county's share of the general excise tax when received by the county, sufficient for the purposes specified in items (2), (3), (4) and (6), respectively, and shall keep such allotments in special accounts for use for such purposes only and shall under no circumstances allow any part thereof to be used for any other purpose; nor shall the territorial treasurer allow any moneys so retained for the purposes specified in items (1) and (5) to be used for any other purpose; **provided,** however, that if any amount included in item (6) shall, by law, be required to be retained by the territorial treasurer for any purpose specified by law, such amount shall be so retained by the treasurer and applied to such purpose. If at any time there shall be insufficient moneys for the purposes of any special account, moneys in the general account of the Territory or county, as the case may be, may be used for such purposes, in which case the general account may later be reimbursed by transfers from such special account.

Each county shall receive a share of the general excise tax, consumption tax, and compensating tax (hereinbefore and hereinafter called the county's share of the general excise tax), as follows: The treasurer of the Territory, in quarterly installments, on or about the last days of March, June, September and December, in each such calendar year, shall pay to the county treasurer of each county, to become a general fund realization of said county, expendable as such, except as otherwise provided by law, the county's share of the general excise tax for such year, determined as hereinafter provided. Each such quarterly payment shall be an estimated amount, which shall be adjusted by the treasurer in making the succeeding quarterly payment. The county's share of the general excise tax shall be determined as follows: the total of the distributions so made to the counties from the collections of general excise tax, consumption tax and compensating tax shall be in an amount determined by crediting to the counties (in the aggregate, irrespective of where the collections are made), one per centum of the tax base of all collections of said taxes which have been made at the rate of two and one-half per centum. Said total credit shall be divided among the counties so that each county shall receive the percentage of the total hereinafter stated, that is:

In the case of the city and county of **Honolulu** 55%
In the case of the county of **Maui** 15%
In the case of the county of **Hawaii** 20%
In the case of the county of **Kauai** 10%

All property taxes (including real and personal* taxes for any year, whether before or after 1933, and delinquent taxes and taxes collected by reason of assessments of omitted property, additional assessments or the settlement of tax appeals) collected during any calendar year in any county shall (except as otherwise provided by law) be applied on account of the requirements of such county for such year, **provided,** however, that in the counties of Hawaii and Kauai the amount of taxes so distributed shall not exceed in the aggregate, a maximum amount equal to the sum of (a) the amount set forth under column III of the budget for such county, or the amount prescribed by law as the limit of the amount to be raised by property taxes for such county, whichever is the smaller, and (b) the amount of any deficiency in meeting the requirements of such county for such preceding calendar year as set forth in its budget for such year, caused by insufficient property tax collections during such year; **provided,** that in case there was such deficiency in meeting the requirements of such county for such preceding calendar year, then any delinquent tax collections made during the current year of taxes assessed in prior years shall be expendable forthwith by the county on account of any obligations incurred or commitments made during such preceding year and not paid or met because of such deficiency in collections.

Any real or personal* property taxes collected during any year in the county of Hawaii or county of Kauai, in excess of said maximum amount, shall be retained by the treasurer and applied to meet the requirements of such county for the succeeding calendar year and shall by him be deducted from the amount (item (10) under column III of the budget) which would otherwise be used by him in fixing the real property tax rate for the county for the succeeding calendar year pursuant to section 5252, thereby reducing the tax rate. If the amount of the county requirements set forth in item (10) under column III of the budget shall be in excess of the county's maximum limit fixed by section 5252, to be raised by real property taxes, the treasurer shall first reduce said requirements to the amount of said tax rate limit as provided by section 5252, and shall then deduct from said reduced amount the amount of such excess collections pursuant to this paragraph. Such excess collections shall not be taken into consideration by the board of supervisors in fixing and submitting to the treasurer its budget for the succeeding calendar year pursuant to section 5252.

All payments to be made by the territorial treasurer as aforesaid shall be made upon warrants issued by the territorial auditor; **provided,** however, that nothing in this subtitle contained shall be construed as in any way amending

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*Note: Repeal of personal property tax effective January 1, 1948, L. 1947, c. 111 s. 7.

or repealing the provisions of any law authorizing the withholding, by the territorial treasurer or the territorial auditor, of moneys in the territorial treasury belonging or due to any county for the payment of principal or interest for territorial bonds, or any other charges. [R. L. 1945, s. 5254; am. L. 1945, c. 82, s. 4; am. *in toto* L. 1947, c. 111, ss. 3, 11.]

§ 5255. **Repealed, L. 1947,** c. 111 (A-81), s. 4 (c); effective January 1, **1948.**

§ 5256. **Repealed,** L. 1947, c. 111 (A-81), s. 5; effective January 1, **1947.**

REQUIRED COUNTY EXPENDITURES

Sec. 5257. Special provisions, Hawaii. Of the general fund realizations made available to the county of Hawaii, the board of supervisors of said county shall annually deposit in special funds the amounts hereinafter designated in items 1 and 2, and said amounts shall be expended or made available for expenditure for the purposes expressed in said items.

1. For the use of the police department of the county, sums which, together with other amounts mandated by law shall aggregate not less than $250,000.00
   Out of this sum and any additional amounts appropriated for the same purposes, the head of the police department shall pay all operating expenses of the police department, including all salaries of employees of the police department.
2. For use and expenditure by and under the direction of the board of supervisors, together with other moneys made available therefor by the board and by the legislature, for the construction of roads in the county of Hawaii $110,000.00
   [L. Sp. 1941, c. 29, s. 5; am. L. 1943, c. 152, s. 4 (4) and c. 189, s. 1; R. L. 1945, s. 5257; (see L. 1945, c. 31); am. L. 1947, c. 111, ss. 6, 12.]

Sec. 5258. Special provisions, Honolulu. Of the general fund realizations made available for the city and county of Honolulu the board of supervisors shall appropriate and make available for expenditures by the Honolulu police department such an amount which, together with all other amounts required to be made available for said department by said board, shall aggregate not less than one million two hundred eighty-nine thousand one hundred ten dollars per annum plus the amounts necessary to meet all of the salary increases provided for by section 6550, subsection (1), and section 6551, from and after December 31, 1944. This provision shall not restrict the authority of the board of supervisors to appropriate additional moneys for use by the police department.

Any balance of general fund realizations made available to the city and county of Honolulu for any year, not expended during such year, shall be carried forward and expended during any subsequent year, any other provision of the law to the contrary notwithstanding. [L. Sp. 1941, c. 29, s. 2; am. L. 1943, c. 152, ss. 4, 5; R. L. 1945, s. 5258; am. L. 1947, c. 111, ss. 6, 12.]

§ 5259. **Repealed, L. 1947,** c. 212 (B-106), s. 2.

Sec. 5260. Special funds in treasury of Territory. (a) There are created in the treasury of the Territory two special funds to be known, respectively, as territorial highway fund and territorial airport fund.* All taxes collected under chapter 100 in each calendar year, except the "city and county of Honolulu extra tax," "county of Maui extra tax," and "county of Kauai extra tax," shall be deposited in the territorial highway fund; **provided,** however, that all taxes collected under chapter 100 in respect to gasoline sold for use in or used for airplanes shall be set aside in the territorial airport fund.

(b) **Territorial highway fund.** (1) From the moneys in the territorial highway fund the treasurer of the Territory shall pay to each county treasurer each year, when and as required by such county treasurer, the amount needed by such county for the payment of the interest on term and serial bonds, sinking fund charges on term bonds due during such year, and payments of principal of serial bonds which are due during the following year, on all bonds issued by such county for highway purposes prior to January 1, 1945, including bonds the payment of the principal and interest of which is required by law to be made out of the permanent improvement fund of the county, and including bonds issued for the refunding of any of the foregoing. Each county treasurer shall hold and use such funds for the aforesaid purposes only, and shall under no circumstances allow any part thereof to be used for any other purpose.

(2) The remaining moneys in the territorial highway fund shall be expendable by the territorial highway department for the design, construction, reconstruction, repair, and maintenance of, and for engineering and acquisition of rights of way for highways in the Territory upon which federal moneys are expendable or have been expended, pursuant to the provisions of chapter 89, and the Federal Highway Act and legislation supplementary thereto; **provided,** that the expenditures from such fund for new construction work, including acquisition of rights of way, shall be so apportioned to the counties by the territorial highway engineer that, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, there shall be expended for each county the estimated amount of its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the territorial highway engineer except as hereinafter stated, and to be computed on the following basis: there shall be credited to each county the amount of the collections made each year for deposit in said fund, for fuel sold or used within such county; **provided,** that fuel intended for ultimate use in another county shall be credited to the county in which the same is to be so used; **provided,** further, that the county of Hawaii extra tax shall be credited directly to the share of said county and shall not be subject to deduction for bonds issued by counties or for repairs or maintenance. The tax commissioner shall estimate the amount of the said collections for each county for the year. There shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the amount

of the bond requirements of the several counties for the year pursuant to paragraph (1) of this subsection, as determined by the respective county treasurers. The tax commissioner and the county treasurers shall certify such amounts to the territorial highway engineer and the territorial treasurer on or before January 31 of each year. There further shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the cost for the year of repairs and maintenance of federal aid highways, including the cost of equipment and general administrative overhead. The balance remaining after the deduction of charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections (not including in the credit for Hawaii, for said purpose, the county of Hawaii extra tax), and the amount so determined for each county shall be deemed its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, **provided,** that there shall be additionally credited to the county of Hawaii's share the county of Hawaii extra tax. If the actual share of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, repairs and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

Provided, that there shall be expended from the territorial highway fund for new construction in West Hawaii, and charged against the county of Hawaii's share of the collections, an amount at least equal to ten per cent of the principal of any territorial bonds issued on or after January 1, 1947 for new construction for the county of Hawaii; **provided,** further, that there shall be paid from the territorial highway fund and charged against the county of Hawaii's share of the collections, the same as if expended directly for new construction, the following requirements for territorial bonds issued on or after January 1, 1947 for new construction for the county of Hawaii, to wit: the interest on such bonds and the principal of all serial bonds maturing the following year, such payments to be made by the territorial treasurer, who shall certify the amount thereof to the territorial highway engineer, from time to time.

As used in this subsection the term "new construction" includes the items enumerated in the first sentence hereof, except repairs and maintenance. [R. L. 1945, s. 5260; am. L. 1945, c. 82, s. 5; am. L. 1947, c. 32, s. 5 and c. 196, s. 1; see L. 1947, c. 36, s. 1.]

* Note: As to "territorial airport fund" see R. L. s. **4915.07, L. 1947,** c. 32 (A-75) pt. of s. 1 (7).

Chapter 97: Bank Excise

§ 5312. Am. L. 1947, c. 114 (A-84), s. 1, by substituting for the sum of "fifty thousand dollars" (page 627, R. L. 1945, line 2) the sum of **"one hundred and twenty-five** thousand dollars" as the aggregate to be produced.

Chapter 98: Compensation and Dividends

§ 5343. Am. L. 1945, c. 121 (A-101), s. 1, p. 182: ('45 Tax Code, p. 53.)

Sec. 5344. Tax on compensation; exemptions.

(a) There shall be assessed, levied, collected and paid for each month a tax of two per centum upon the amount of all compensation, not exempted under subsection (b) or (c) of this section, received by every person, during all or any part of such month.

(b) Any such compensation (1) paid out of funds appropriated by, or furnished, pursuant to the provisions of any statute of the Territory or of the United States, solely for the relief of unemployment, or (2) paid out of any fund created by this chapter or by chapters 84 or 85 in the form of public assistance or compensation paid by the department of public welfare to blind persons and other persons for work performed in their homes or in workshops, or (3) paid to employees of the Territory employed in the county of Kalawao, or (4) paid as a pension for past services, shall be exempt from the tax imposed by this section.

(c) Compensation received from the United States by members of the United States army, navy or marine corps, who are in federal service on active duty with such army, navy or marine corps, or by members of the United States coast guard on active service, shall likewise be exempt.

(d) Compensation paid to a blind person in an amount which, together with dividends exempted from taxation, under section 5350 of this chapter, shall not exceed $2,000.00 per annum, shall be exempt from the tax imposed by this Act. [L. 1933, c. 209, s. 3 and L. 1935, c. 135, s. 3; R. L. 1935, Chap. IV, Appendix, s. 3; am. L. 1939, c. 238, s. 6; am. L. 1939, c. 241, s. 3; am. L. 1941, c. 213, pt. of s. 1; am. L. 1943, c. 100, pt. of s. 2; R. L. 1945, s. 5344; am. L. 1947, c. 213, s. 2.]

(Perquisites excluded from tax, s. 5342. Credit for tax payments against income tax, s. 5504.)

Sec. 5350. Tax on dividends. There shall be assessed, levied, collected and paid for each month a tax of two per cent upon the amount of all dividends paid during the month by any local company, or received during the month from any company, local or foreign; **provided** that the tax shall be paid only once with respect to the same dividend.

Dividends paid to a blind person in an amount which, together with compensation exempted from taxation under section 5344 of this chapter shall not exceed $2,000.00 per annum, shall be exempt from the tax imposed by this section. [L. 1933, c. 209, s. 9; R. L. 1935, Chap. IV, Appendix, s. 9; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1; am. L. 1943, c. 100, s. 2 (g); R. L. 1945, s. 5350; am. L. 1947, c. 213, s. 3.]

§ 5358. Am. L. 1945, c. 208 (A-102), s. 1, p. 184: ('45, Tax Code, p. 57).

CHAPTER 98.01. COMPENSATING TAX LAW

Sec. 5370.01. Definitions. "Commissioner", "person", "business", "engaging in business", "retailer", "wholesaler", "jobber", and "contractor" have the meanings defined by chapter 101.

"Property" means tangible personal property.

"Purchase" and "sale" mean and refer to any transfer, exchange or barter, conditional or otherwise, in any manner or by any means, wheresoever consummated, of tangible personal property for a consideration.

"Purchaser" means any person or government or agency thereof purchasing property; **provided,** that the United States, its departments and agencies to the extent immune from the tax imposed by this chapter under the constitution and laws of the United States, shall not be deemed a purchaser.

"Price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, and wheresoever paid, provided that cash discounts allowed and taken on sales shall not be included.

"Seller" means any person engaged in the business of selling tangible personal property, wheresoever engaged, but does not include the United States or any of its departments or wholly owned agencies, the Territory of Hawaii or any county thereof, or agency of the Territory or a county. Any person who has in his possession, for sale in the Territory, the property of a nonresident owner, other than as an employee of such owner, shall be deemed the seller of such property, when sold.

"Unlicensed seller" means any seller who, with respect to the particular sale, is not subject to the tax imposed by chapter 101, whether or not he holds a license under said chapter, but shall not include any seller with respect to any sale which is expressly exempted from the tax imposed by chapter 101 by section 5459 or 5460 thereof, or by section 5444.01 added thereto by Act 243 of the Session Laws of 1945, or by an act of the twenty-fourth legislature or later enactment.

"Purchasing agent" means any person who, as an agent and not a seller, for a consideration, is engaged in the Territory in the business of purchasing for his principal or principals from an unlicensed seller or sellers property for use by such principals in the Territory, for example, by forwarding orders for such purchases, in behalf of such principals, it being immaterial whether he is compensated for his services by the seller or by the purchaser; but the term "purchasing agent" shall not include an employee of the purchaser.

"Representative" means any salesman, commission agent, manufacturer's representative, broker, or other person who is authorized or employed by an unlicensed seller to assist such seller in selling property for use in the Terri-

tory, by procuring orders for such sales or otherwise, and who carries on such activities in the Territory, it being immaterial whether such activities are regular or intermittent. Any unlicensed seller who in person carries on any such activity in the Territory shall also be classed as a representative.

"Use" (and any verbal, adjective, adverbial and other equivalent form of any of said terms), herein used interchangeably, means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.02. Imposition of tax; exemptions. There is hereby levied an excise tax on the use in this Territory of tangible personal property which, on or after July 1, 1947, is purchased from an unlicensed seller for use in this Territory, through the activity or with the assistance of a purchasing agent or representative, it being immaterial whether such purchase is induced or brought about wholly or only partly through such activity or assistance. The tax imposed by this chapter shall accrue when such property is acquired by the purchaser and becomes subject to the taxing jurisdiction of the Territory, and shall be paid only once upon or in respect of the same property. The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the Territory. The rates of the tax hereby imposed and the exemptions therefrom are as follows:

(a) If the purchaser is licensed under chapter 101 and is (1) a wholesaler or jobber purchasing for purposes of resale, or (2) a manufacturer purchasing material or commodities which are to be incorporated by such manufacturer into a finished or saleable product (including the container or package in which the product is contained) wherein it will remain in such form as to be perceptible to the senses, and which finished or saleable product is to be sold in such manner as to result in a further tax on the activity of the manufacturer as such manufacturer and not as a retailer, there shall be no tax, **provided,** that if such wholesaler, jobber, or manufacturer is also engaged in business as a retailer (so classed under chapter 101), paragraph (b) shall apply to him, but the commissioner shall refund to him, from the fund created by section 5468, such amount of tax as he shall, to the satisfaction of the commissioner, establish to have been paid by him to the commissioner or to a person required or authorized to collect such tax, with respect to property which has been used by him for the purposes stated in this paragraph.

(b) If the purchaser is licensed under chapter 101 and is (1) a retailer or other person purchasing for purposes of resale, not exempted by paragraph (a), or (2) a manufacturer purchasing material or commodities which are to be incorporated by such manufacturer into a finished or saleable product (including the container or package in which the product is contained) wherein it will remain in such form as to be perceptible to the senses, and which finished or saleable product is to be sold at retail in this Territory, in such manner as to result in a further tax on the activity of the manufacturer in

selling such products at retail, or (3) a contractor purchasing material or commodities which are to be incorporated by such contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses, the tax shall be one per cent of the purchase price of such property.

In all other cases, two and one-half per cent of the purchase price of such property. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.03. Collection of tax by representative or purchasing agent. (a) Every representative and purchasing agent shall collect the tax imposed by this chapter from the purchaser not later than the time of accrual of said tax, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the commissioner.

(b) The tax commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him may relieve any representative or purchasing agent of the duty of collecting and paying over the tax imposed by this chapter, if he is satisfied that the tax can be effectively collected by other means. Such exemption from the duty of collecting the tax may be cancelled at any time when the commissioner finds that the tax cannot be effectively collected by other means.

(c) The tax commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him, may authorize the collection of the tax imposed by this chapter by a seller not otherwise required to collect the tax. Such seller, when so authorized, shall have the duty of collecting and paying over the tax in the same manner and subject to the same requirements as set out in subsection (a). Such authority may be cancelled at any time when, in the judgment of the commissioner, the tax can more effectively be collected by other means.

(d) In case any representative, purchasing agent, or seller required or authorized to collect the tax under this chapter fails to collect the same, or having collected the tax fails to pay over the same as provided by this chapter, whether such failure be the result of his own acts or the result of acts or conditions beyond his control, he shall nevertheless be personally liable to the Territory for the amount of such tax. In the case of a representative so failing to collect or pay over the tax, if such representative is an employee of the seller, the seller likewise shall be personally liable to the Territory for the amount of such tax, whether or not the seller has assumed the duty of collecting the tax pursuant to subsection (c).

(e) Every representative, purchasing agent or seller required or authorized to collect the tax shall make returns and payments of the tax at the same time and in the same manner as is provided with respect to purchasers. All of the provisions of this chapter with respect to returns, reports, records, payments, penalties and interest, appeals, investigations and audits, assessments, tax collection procedure, criminal offenses, and the general administrative powers and duties of the tax commissioner, shall apply to such representatives, purchasing agents and sellers the same as to purchasers.

(f) The tax collected pursuant to this section shall be held in trust for the Territory and for the payment of the same to the proper collecting officer in the manner and at the time required by this chapter. Any person collecting such tax who shall appropriate or convert the same to his own use or to any use other than the payment of the tax as herein provided, and who shall fail to pay over the amount of tax so collected at the time required by this chapter, shall be deemed guilty of an embezzlement of property of the Territory and upon conviction thereof shall be punished at hard labor for a period of not to exceed ten years or by fine not to exceed five times the amount of money so embezzled, and any failure by the person so collecting the tax to pay the same over within the time provided by this chapter, after demand therefor, shall be taken and held to be prima facie evidence of the embezzlement. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.04. Returns. On or before the twentieth day of each calendar month, any person who has become liable to the payment of a tax under this chapter during the preceding calendar month in respect of any property or the use thereof, shall file a return with the assessor of the taxation division in which such property was held when such tax first became payable, or with the commissioner at Honolulu, setting forth a description of the property and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the commissioner by regulations shall require, and the purchase price thereof. Such return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 5370.02 upon the price so returned. Any such tax remaining unpaid after said twentieth day following the end of the calendar month during which the same first became payable shall become delinquent. The commissioner for good cause may extend the time for making any return required by this Act, and may grant such reasonable additional time within which to make such return as he may deem proper, but the time for filing such return shall not be extended beyond the twentieth day of the second month next succeeding the regular due date of such return. **Provided,** that a receipt from a representative, purchasing agent or seller required or authorized to collect the tax, given to a purchaser in accordance with the provisions of section 5370.03, shall be sufficient tax to which such receipt may refer, or for the return to relieve such purchaser from further liability for the return thereof.

On or before March 20 in each year every representative, purchasing agent or seller required or authorized to collect the tax during the preceding year, and any purchaser who has become liable to the payment of taxes both under this chapter and also under chapter 101 during the preceding calendar year (or during the preceding tax year if such purchaser has established a tax year other than the calendar year), shall file a return summarizing his liability under this chapter for such year, in such form as the commissioner shall prescribe. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.05. Audits; additional assessment; refunds. All of the provisions of sections 5467-5471 of chapter 101 are hereby made applicable to the taxes imposed by this chapter, to the refunding of overpayments thereof, and to assessments, investigations and audits in connection therewith, for which pur-

pose any references therein to "gross income" or "gross proceeds of sale" shall be deemed to refer to the purchase price subject to tax under this chapter, and any references to the "annual return" shall, if the taxpayer is not required to file an annual return under this chapter, be deemed to refer to the monthly return mentioned in the first paragraph of section 5370.04. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.06. Appeal; correction of assessment. If any person having made the return and paid the tax as provided by this chapter feels aggrieved by the assessment so made upon him by the tax commissioner, he may appeal from said assessment in the manner and within the time and in all other respects as provided in section 5535, for which purpose the word "income" shall be deemed to refer to purchase price. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.07. Records. It shall be the duty of every person who is engaged in any business in the Territory and who is required under this chapter to make returns, to keep in the English language in the Territory and preserve for a period of five years, books of account or other records in sufficient detail to enable the commissioner, as far as reasonably practicable, to determine whether or not any taxes imposed by this chapter are payable in respect of the property concerned, and if so payable, the amount thereof. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.08. Penalty for delinquency. A penalty of ten per centum shall be added to and become a part of any tax or portion thereof becoming delinquent, and in addition thereto said tax as so increased shall bear interest at the rate of two-thirds of one per centum for each month or fraction thereof from the expiration of fifteen days from the date of delinquency until paid, which interest shall be added to and become a part of such tax. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.09. Collection of taxes by assumpsit or distraint; concurrent jurisdiction of district magistrates. Any tax which is delinquent under this chapter may be collected:

(a) By action in the name of the commissioner or any collector or deputy collector of taxes, in assumpsit, with or without attachment of the real or personal property of the person liable, and it shall be unnecessary, in order to secure the issuance of the writ of attachment, for the officer bringing such action to file any affidavit, other than the usual sworn complaint in ordinary assumpsit actions where no attachment is sought, with a prayer for such writ; in all such actions the several district magistrates shall have concurrent jurisdiction with the circuit courts, irrespective of the amount claimed.

(b) By distraint in the manner provided by section 5480 of chapter 101 which is hereby made applicable to taxes due under this chapter in the same manner, as nearly as may be, as to taxes due under said law. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.10. Offenses, penalties; fines territorial realizations. It shall be unlawful for any person to fail or refuse to make any return or keep any records required under this chapter. Any person violating the provisions of

this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for a term of not more than one year, or both, in the discretion of the court.

Notwithstanding any other laws to the contrary, the proceeds of all fines (exclusive of costs) imposed for conviction under this chapter shall be territorial realizations and shall be paid into the general fund of the Territory. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.11. Other provisions of chapter 101 applicable. In respect of (a) the examination of books and records and of taxpayers and other persons, (b) procedure and powers upon failure or refusal to make a return or a proper return, and (c) the general administration of this chapter, the commissioner shall have all the rights and powers conferred upon him by chapter 101 with respect to taxes thereby or thereunder imposed; and, without restriction upon the aforesaid rights and powers, sections 5450 and 5467-5472 are hereby made applicable to and with respect to the taxes and the taxpayers, tax officers and other persons, and the matters and things affected or covered by this chapter, in so far as not inconsistent with the provisions of this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 101. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.12. Notification to purchaser. Every representative and purchasing agent who receives, procures, induces, or assists in bringing about any order for the sale of property by an unlicensed seller for use in the Territory shall, before the property is ordered, inform the purchaser in writing of his liability under this chapter, unless the tax has already been collected from the purchaser. Any person who violates the provisions of this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five times the amount of the tax or $1,000, whichever is larger. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.13. Taxes, territorial realizations. All taxes collected under this chapter shall be territorial realizations. [L. 1947, c. 113, pt. of s. 1.]

Sec. 5370.14. Short title. This chapter may be cited, as "the compensating tax law". [L. 1947, c. 113, pt. of s. 1.]

Chapter 99: (Consumption Tax)

Sec. 5372. Same; use, consumption, defined. Wherever used in this chapter, unless otherwise required by the context, "use" or "consumption" (and any verbal, adjective, adverbial and other equivalent form of any of said terms), herein used interchangeably, means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or consumption; but shall **not** include:

(a) The sale or the keeping solely for sale of such property; (b) the use or keeping for use of property as material which is or is to be incorporated by the taxpayer into a finished or saleable product, including the container or package in which the product is contained, during the course of its preservation, manufacture or processing, including preparation for market, and which remains or will remain in such finished or saleable product in such form as to be perceptible to the senses, and which finished or saleable product is or is to be sold and not otherwise used by the taxpayer; (c)

temporary use of property, not of a perishable or quickly consumable nature, where such property is imported into the Territory for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in the Territory (as for example without limiting the generality of the foregoing language: (i) in the case of a contractor importing permanent equipment for the performance of a construction contract, with intent to remove, and who does remove, such equipment out of the Territory upon completing the contract; (ii) in the case of moving picture films imported for use in theaters in the Territory with intent or under contract to transport the same out of the Territory after completion of such use; (iii) in the case of a transient visitor importing an automobile or other belongings into the Territory to be used by him while therein but which are to be and are removed upon his departure from the Territory); (d) use by the taxpayer of property acquired by him solely by way of gift; (e) use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time either after temporary trial or without such trial; (f) use of goods imported into the Territory by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for such vessels; (g) the use or keeping for use of materials or commodities which are to be incorporated by a contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses. [L. 1935, c. 160, pt. of s. 1; R. L. 1945, s. 5372; am. L. 1947, c. 113, s. 2.]

Sec. 5374. Rate of tax. The rate of the tax hereby imposed shall be two and one-half per centum. [R. L. 1945, s. 5374; am. L. 1945, c. 100; am. L. 1947, c. 111, s. 8 (effective July 1, 1947).]

Sec. 5375. Persons taxable; computation of tax; payable when. Every person who imports into the Territory, or acquires in the Territory from any other person not taxable under the general excise tax law in respect of the transaction by which the former acquired the same, and without himself being liable in respect of said transaction under the compensating tax law, any property for his use or consumption, shall be subject to a tax in respect of such use or consumption at the rate in this chapter provided, measured by the value of such property, which tax shall be payable:

(a) In the case of property imported in foreign commerce, at the time such property loses its character as an import and its immunity as such from taxation by the Territory;

(b) In the case of property imported in interstate commerce, at the time such property comes to rest in the Territory and ceases its character as an article in interstate commerce; and

(c) In the case of property acquired otherwise than through importation into the Territory by the taxpayer in foreign or interstate commerce, at the time of such acquisition;

Provided that in the event that such tax may not legally be levied in respect of the property concerned at the time and under the circumstances provided

in paragraphs (a), (b) or (c) of this section, then such tax shall be levied and become payable at the commencement by the taxpayer of any use or consumption of said property which is taxable by the Territory.

The value of the property at the time the tax first becomes payable in respect thereof, shall be the value used for the computation of such tax. [L. 1935, c. 160, s. 4; R. L. 1945, s. 5375; am. L. 1947, c. 113, s. 3 (b).]

Sec. 5376. Exemptions. The tax imposed by this chapter shall not apply: (1) To any property, or to any use or consumption of such property, which cannot be legally so taxed under the Constitution or laws of the United States, but only so long as, and only to the extent to which, the Territory is without power to impose such tax; and

(2) To liquid fuel as defined in chapter 100;

(3) To any person in respect of property acquired in or imported into the Territory by him prior to May 11, 1935.

(4) To any use or consumption of personal property the transfer of which property to, or the acquisition of which by, the person so using or consuming the same has actually been or actually is taxed under the general excise tax law, or the compensating tax law.

(5) The tax imposed by this chapter shall be paid only once upon or in respect of the same property; **provided** that nothing in this chapter contained shall be construed to exempt any property or the use or consumption thereof from taxation under any other law of the Territory. [L. 1935, c. 160, s. 5; R. L. 1945, s. 5376; am. L. 1947, c. 113, s. 4.]

§ 5379. Am. L. 1947, c. 113 (A-85), s. 5, by deleting from the 4th line thereof the word "otherwise."

§ 5381. AM. in toto, L. 1945, c. 92 (A-99), s. 3, p. 179: ('45, Tax Code, p. 61).

§ 5383. AM. in toto, L. 1945, c. 253 (A-104), s. 1: ('45, Tax Code, p. 61).

Chapter 100: Fuel Tax

Sec. 5404. Distributors and others to pay certain license taxes. (a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the commissioner for each gallon of liquid fuel refined, manufactured, produced or compounded by such distributor and sold or used by him in the Territory or imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the Territory. Any person who shall sell or use any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay such tax as would have applied to such sale or use by the distributor himself. The rates of the tax hereby imposed are as follows:

(1) For each gallon of diesel oil, one cent.

(2) For each gallon of gasoline sold for use in or used for airplanes, five cents.

(3) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Hawaii, or in any county for ultimate use in the county of Hawaii, six cents, of which tax one-third, or two cents, shall be known as the "county of Hawaii extra tax" and is so referred to in chapter 96.

(4) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the city and county of Honolulu, or in any county for ultimate use in the city and county of Honolulu, four cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the "city and county of Honolulu extra tax" and is so referred to in chapter 96.

(5) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Maui, or in any county for ultimate use in the county of Maui, four cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the "county of Maui extra tax" and is so referred to in chapter 96.

(6) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Kauai, or in any county for ultimate use in the county of Kauai, four cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the "county of Kauai extra tax" and is so referred to in chapter 96.

(b) Every distributor or other person who shall use any diesel oil for operating a motor vehicle or motor vehicles upon the public highways of the Territory shall, in addition to the tax required by subsection (a) of this section, pay a license tax to the commissioner for each gallon of such diesel oil so used by him. Any diesel oil acquired by a person who has in his ownership, possession or control any vehicle in which diesel oil may be used on the highways, shall be presumed to have been entirely used by such person upon the highways, unless upon proper records and from such other evidence as the commissioner may require it shall be proved to the satisfaction of the commissioner that such diesel oil has not been used by such person on the highways. The rates of the additional tax hereby imposed are as follows:

(1) For each gallon of diesel oil so used upon the public highways in the county of Hawaii, five cents, of which two-fifths, or two cents, shall be known as the "county of Hawaii extra tax" and is so referred to in chapter 96.

(2) For each gallon of diesel oil so used upon the public highways in the city and county of Honolulu, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the "city and county of Honolulu extra tax" and is so referred to in chapter 96.

(3) For each gallon of diesel oil so used upon the public highways in the county of Maui, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax shall be known as the "county of Maui extra tax" and is so referred to in chapter 96.

(4) For each gallon of diesel oil so used upon the public highways in the county of Kauai, three cents, and in addition thereto during the period July 1, 1947 to June 30, 1951, inclusive, an extra tax of two cents, which extra tax

shall be known as the "county of Kauai extra tax" and is so referred to in chapter 96.

(c) **Provided,** that the tax shall not be collected in respect to any liquid fuel, including diesel oil, shown to the satisfaction of the commissioner to have been sold for use in and actually delivered to, or sold in, the county of Kalawao. [L. 1932, 1st, c. 19, s. 4; am. L. 1933, c. 133, s. 2; am. L. 1937, c. 189, s. 1; am. L. 1939, c. 254, s. 1; am. L. Sp. 1941, c. 26, pt. of s. 1; R. L. 1945, s. 5404; am. L. 1947, c. 196, s. 2.]

Sec. 5408. Distributors, etc., to keep records. (1) Every distributor shall keep in the Territory and preserve for three years a record in such form as the commissioner shall prescribe, showing (a) the total number of gallons of fuel refined, manufactured, produced, or compounded by such distributor and sold or used by him within each county during each month of the calendar year, and if for ultimate use in another county, the name of that county; (b) the total number of gallons of such fuel imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in each county during each month, and if for ultimate use in another county, the name of that county; (c) the total number of gallons of such fuel sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during each month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; and (d) such other data and figures relevant to the enforcement and administration of the provisions of this chapter as the commissioner may require.

(2) In addition to the foregoing, every person who shall purchase, manufacture, import into the Territory, or otherwise acquire in the Territory, any diesel oil, shall keep in the Territory and preserve for three years records in such form and detail as the commissioner shall prescribe, showing the quantity of diesel oil purchased, imported, manufactured, or acquired, and the type of use, or the disposition, of such diesel oil, including the names and addresses of persons to whom any of such oil shall have been sold or delivered, and the amount so sold or delivered to each. Upon the request of the commissioner there shall be furnished to the commissioner sworn statements containing such information, so required to be kept available, as the commissioner may require.

(3) **Provided,** that any responsible person buying diesel oil solely for purposes other than resale, may, upon application to the commissioner, and furnishing such information under oath as shall be satisfactory to him for such purpose, be exempted in whole or in part from the requirements of this section as to keeping of records with respect to such diesel oil, upon such conditions as the commissioner may prescribe; this proviso shall be administered in such manner as to prevent as far as reasonably possible undue hardship upon persons purchasing diesel oil solely for purposes other than resale. [L. 1932, 1st, c. 19, s. 6; am. L. Sp. 1941, c. 26, pt. of s. 1; R. L. 1945, s. 5408; am. L. 1947, c. 196, s. 3.]

Sec. 5409. Statements and payments, when and how made; delinquent when; penalties. Each distributor, and each person subject to the provisions of subsection (b) of section 5404 or subsection (2) of section 5408, shall, within thirty days after the last day of each calendar month, file with the commissioner on forms to be prescribed, prepared and furnished by him, a statement, authenticated as provided in section 5123, showing separately (a) the total number of gallons of fuel refined, manufactured or compounded by such distributor or person within the Territory and sold or used during such month by him within each county, and if for ultimate use in another county, the name of that county; (b) the total number of gallons of fuel imported by him and sold or used within each county by him during such month, and if for ultimate use in another county, the name of that county; (c) the total number of gallons of fuel acquired by him during such month from persons not subject to the four or six cents tax on such transaction, as the case may be, and sold or used within each county by him during such month, and if for ultimate use in another county, the name of that county; (d) the total number of gallons of such fuel by him sold to the United States or any department or agency thereof or to any other person or entity, or used in any manner, in each county during such month, the effect of which sale or use is to exempt the fuel so sold or used from the imposition of the tax provided for by this chapter; (e) the total number of gallons of fuel on hand in his possession in all of the counties at the beginning of the month, the total number of gallons thereof by him refined, manufactured, produced, compounded or acquired from persons not subject to the four or six cents tax on such transactions, as the case may be, or imported during the month, and the total number of gallons thereof on hand in his possession at the end of the month; and (f) such additional information relative to the acquisition, purchase, manufacture or importation into the Territory, and the sale, use or other disposition, of diesel oil by such distributor or person during such month, as the commissioner shall by regulation prescribe; and such distributor or person shall pay at the time of submitting such report to the commissioner, the tax on each gallon of fuel (including diesel oil) by him sold or used in each county during such preceding month, as shown by such statement and required by this chapter; **provided,** however, (1) that such tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and (2) that the tax shall be paid only once upon the same fuel. All such taxes payable for any month shall be and become delinquent after the expiration of thirty days immediately following the end of the month, and shall thereupon bear a penalty of ten per centum of the amount so delinquent and, in addition thereto, interest on such delinquent amount at the rate of two-thirds of one per centum per month or any fraction thereof until paid. [L. 1932, 1st, c. 19, s. 7; am. L. 1933, c. 133, s. 3; am. L. 1937, c. 189, s. 2; am. L. Sp.1941, c. 26, pt. of s 1; am L. 1943, c. 4; R. L. 1945, s. 5409; am. L. 1947, c. 196, s. 4.]

Chapter 101: General Excise

§ 5442. Am. L. 1947, c. 113 (A-85), s. 6, by adding to the definition of "person," in the fourth paragraph, the following sentence:

"Any person who has in his possession, for sale in the Territory, the property of a non-resident owner, other than as an employee of such owner, shall be deemed the seller of such property, when sold."

§ 5444.01. New L. 1945, c. 243 (A-93), s. 2, p. 172: ('45, Tax Code, p. 69).

§ 5454. **Repealed,** L. 1945, c. 100 (A-103).

Sec. 5455. Imposition of tax. There is hereby levied and shall be assessed and collected annually privilege taxes against the persons on account of their business and other activities in this Territory measured by the application of rates against values, gross proceeds of sales or gross income, as the case may be, as follows:

A. Tax on manufacturers. (1) Upon every person engaging or continuing within this Territory in the business of manufacturing, compounding, canning, preserving, packing, milling, processing, refining or preparing for sale, profit or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of such tax to be equal to the value of the articles, substances or commodities, manufactured, compounded, canned, preserved, packed, milled, processed, refined or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same (except as hereinafter provided), multiplied by the respective rates as follows:

Millers or processors of sugar, raw or refined, two and one-half per cent; canneries, two and one-half per cent; all manufacturers on whose gross income a tax is not otherwise levied in this chapter, one and one-half per cent.

(2) The measure of the tax on manufacturers is the value of the entire product manufactured, compounded, canned, preserved, packed, milled, processed, refined or prepared, in this Territory, for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the Territory.

(3) If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, out of this Territory without making sale of such products, the value of the products in the condition or form in which they existed immediately before entering interstate or foreign commerce shall be the basis for the assessment of the tax imposed in this section. The commissioner shall prescribe equitable and uniform rules for ascertaining such value; and the tax imposed on manufacturers shall be due and payable as of the date of such entry into interstate or foreign commerce, whether said products have been sold or not. If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, outside of the Territory in an unfinished condition, the value of the products or articles in the condition or form in which they existed when shipped or transported out of the Territory and before they entered interstate or foreign

commerce shall be the basis of assessment of the tax imposed on manufacturers and the commissioner shall prescribe equitable and uniform rules for ascertaining such value.

(4) In computing the tax levied on manufacturers where the gross proceeds of sales of such manufactured products are taken as the measure of the value of such products for the purpose of computing the tax, if such products shall have been sold on a delivered price, the actual transportation charges prepaid by the taxpayer or included in the invoice price on such manufactured products, to the place of delivery shall be deducted from the gross proceeds of sales used in determining the amount of the tax.

(5) **Provided,** however, that any person engaging or continuing in the business of refining sugar in the Territory, who purchases raw sugar for such refining, the seller of which raw sugar is taxable in respect to such sale under this subsection A, will be entitled to deduct from the amount of the value used for computing the tax, the amount paid by him for such raw sugar. The refiner shall show in his return the amounts of his purchase of such raw sugar and from whom purchased.

(6) In computing the tax levied under this subsection A, any person who by reason of the agricultural adjustment Act, or other Acts of Congress of the United States, includes as a part of his gross income a processing tax, or other similar tax, paid either to the federal or territorial governments, shall be entitled to deduct from the amount of the value used for computing the tax payable under this subsection A, the amount of the processing tax, or other similar tax, paid by him to the federal government; **provided,** however, that this paragraph shall not be construed to entitle the taxpayer to deduct any sums that may be returned and retained as a benefit payment so-called or a like payment by virtue of the agricultural adjustment Act or other Acts passed by the Congress of the United States relating thereto.

B. Tax on business of selling tangible personal property; producing. (1) Upon every person engaging or continuing within this Territory in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to two and one-half per cent of the gross proceeds of sales of the business; **provided,** however, that in the case of a wholesaler, the tax shall be equal to one per cent of the gross proceeds of sales of the business, and in the case of a producer, the tax shall be equal to one and one-half per cent of the gross proceeds of sales of the business.

(2) **Provided,** that gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions and in accordance with the provisions of the Constitution of the United States and the Acts of the Congress of the United States which may be now in force or may be hereafter adopted.

(3) **Provided,** however, that any person engaging or continuing in business as a retailer and a wholesaler or as a retailer and a producer shall pay the

tax required on the gross proceeds of sales of each such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business; and when his books are not so kept he shall pay the tax as a retailer.

(4) **A manufacturer or producer** engaging in the business of selling his manufactured products at retail in this Territory shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in this chapter, for the privilege of engaging in the business of selling such products at retail in this Territory; and the value, or gross proceeds of sales, of such products, thus sold by the manufacturer or producer at retail and included in the measure of the tax imposed in this chapter, shall be deducted from the gross income, or gross proceeds of sales, used in determining the measure of the tax imposed upon such manufacturer or producer as such.

(5) But a **manufacturer or producer** engaging in the business of selling his products to manufacturers, wholesalers, or licensed retailers, shall not be required to pay the tax imposed in this chapter for the privilege of selling such products at wholesale. Nor shall any such manufacturer or producer be required to pay the tax imposed in this chapter for the privilege of selling products for delivery outside of this Territory. But the gross income derived from the sale of such products to manufacturers, wholesalers, or licensed retailers, and the gross income derived from all sales of such products, for delivery outside of this Territory, shall be included in determining the measure of the tax imposed upon such manufacturer or producer as such.

(6) A taxpayer **selling to a federal cost-plus contractor** may make the election provided for by paragraph (3) of subsection C, and in any such case the tax shall be computed pursuant to the election, notwithstanding any provision of this subsection or subsection A to the contrary.

C. Tax upon contractors. (1) Upon every person engaging or continuing within this Territory in the business of contracting, the tax shall be equal to two and one-half per cent of the gross income of the business. **Provided,** however, that the rate of tax levied upon any such person measured by gross income received on account of uncompleted contracts, entered into prior to May 14th, 1947 shall be one and one-half per cent.* All contracts shall be prima facie presumed to have been entered into subsequent to said date.*

* [See L. 1947, c. 111 (A-81) s. 9 (c).]

(2) **Provided,** however, that in computing the tax levied under this subsection C, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subsection C (1) on another taxpayer, if the tax on the amount so deducted has been paid by such other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom such tax was withheld, and shall issue a receipt for any amount of tax with-

held, which upon filing by such other taxpayer with his return, shall relieve such other taxpayer of liability for the amount of tax withheld.

(3) **Provided,** further, that in computing the tax levied under this subsection C against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:

(a) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of such taxpayer on account of the transaction.

(b) The taxpayer making the sale shall have certified to the commissioner that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed as if the sale were made to the federal government direct.

D. Tax upon theaters, amusements, radio, broadcasting stations, etc. Upon every person engaging or continuing within this Territory in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to two and one-half per cent of the gross income of the business.

D-1. Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent by chapter 98.01, engaging or continuing within this Territory in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the commissions and other compensation attributable to the services so rendered by him.

E. Tax on service business. Upon every person engaging or continuing within this Territory in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of any such business.

F. Professions. Upon every person engaging or continuing within this Territory in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of such practice or exposition.

G. Tax on other business. Upon every person engaging or continuing within this Territory in any business, trade, activity, occupation, or calling not included in the preceding subsections or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to two and one-half per cent of the gross income thereof. This subsection shall apply to the gross income of persons taxable under other subsections hereof not derived from the exercise of privileges taxable thereunder. [L. 1935, c. 141, s. 21; am. L. 1939, c. 252, ss. 1, 2; am. L. 1943, c. 81, pt. of s. 1; R. L. 1945, s. 5455; am. L. 1945, c. 100, s. 3; am. L. 1945, c. 253, s. 2; am. L. 1947, c. 111, s. 9; am. L. 1947, c. 113, s. 7.]

Sec. 5455-A. Exemption as to person with impaired sight. Anything in section 5455 to the contrary notwithstanding, the privilege tax levied, assessed, and collected on account of the businesses and other activities of individuals whose sight is impaired to the extent of seventy-five per cent or more, shall not exceed one per cent of the proceeds, sales, income, or other receipts subject to tax. The impairment of sight shall be certified to by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose. [L. 1947, c. 213, s. 8.]

§ 5459. Am. L .1945, c. 158, s. 1 (p. 194); c. 253, s. 3 (p. 189): ('45, Tax Code, p. 75).

Sec. 5460. Exemptions of gross income. The provisions of this chapter shall not apply to the following gross income or gross proceeds of sales.

(a) Amounts received under life insurance policies and contracts paid by reason of the death of the insured; (b) amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity, or upon surrender of the contract; (c) amounts received by any person under any accident insurance or health insurance policy or contract or under workmen's compensation acts or employers' liability acts, as compensation for personal injuries, death or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of such personal injuries, death or sickness; (d) the value of all property of every kind and sort acquired by any person by gift, bequest or devise, and the value of all property acquired by any person by descent or inheritance; (e) amounts received by any person as compensatory damages for any tort injury to him, or to his character or reputation, or received by any person as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties, **provided,** however, that amounts received by any person as punitive damages for tort injury or breach of contract injury shall be included in gross income; (f) the amounts collected by distributors as a fuel tax on "liquid fuel" imposed by the provisions of chapter 100, and the amounts collected by such distributors as a fuel tax imposed by any Act of the Congress of the United States; (g) the amount received by any person as a benefit payment so-called or like payments by virtue of the Agricultural Adjustment Act or other Acts passed by the Congress of the United States relating thereto and disbursed to others as such benefit payment, provided that the commissioner may by rule require any deductions to be set forth specifically by the taxpayer in his return; (h) amounts received as salaries or wages for services rendered by an employee to an employer; (i) amounts received as alimony and other similar payments and settlements; (j) the amounts collected by retailers and wholesalers as a tax on liquor imposed by chapter 104; (k) the amounts of taxes on tobacco products imposed by chapter 109, where charged separately from the sales price and collected from the purchasers thereof; (l) the amounts of federal excise taxes imposed on articles

sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer; (m) an amount up to, but not in excess of, $2,000.00 per annum of gross income received by any blind person engaging, or continuing, within the Territory, in any business, trade, activity, occupation, or calling. [L. 1935, c. 141, s. 4 (2); am. L. 1939, c. 47, s. 1; am. L. 1943, c. 81, s. 2; R. L. 1945, s. 5460; am. L. 1945, c. 253, s. 4; am. L. 1947, c. 213, s. 1.]

§ 5461. AM. L. 1945, c. 253 (A-104), s. 5, p. 191: ('45, Tax Code, p. 77.)

§ 5463. AM. L. 1945, c. 253, s. 6, p. 191: ('45, Tax Code, p. 77.)

§ 5464. Am. L. 1945, c. 253, s. 7, p. 191: ('45, Tax Code, p. 77.)

§ 5465. AM. L. 1945, c. 253, s. 8, p. 192: ('45, Tax Code, p. 78.)

Sec. 5467. Erroneous returns, disallowance of exemption, payment. If any return made is erroneous, or is so deficient as not to disclose the full tax liability, or if the taxpayer, in his return, shall disclaim liability for the tax on any gross income or gross proceeds of sales liable to the tax, or if the taxpayer shall make application under section 5459 for an exemption to which he is not entitled, the tax commissioner shall correct such error or assess the proper amount of taxes. If such recomputation results in an additional tax liability, or if the commissioner proposes to assess any gross income or gross proceeds of sales by reason of the disallowance of an exemption claimed in the return or for which application has been filed, the commissioner shall first give notice to the taxpayer of the proposed assessment, and the taxpayer shall thereupon have an opportunity within thirty days to confer with the commissioner. After the expiration of thirty days from such notification the commissioner shall assess the gross income or gross proceeds of sales of the taxpayer or any portion thereof which he believes has not theretofore been assessed, and shall give notice to the taxpayer of the amount of the tax, and the amount thereof shall be due and payable on the twenty-first day after the date the notice was mailed, properly addressed to the taxpayer at his last known address or place of business. **Provided,** that no preliminary notice shall be necessary where the amount of the tax is calculated by the commissioner from gross income returned by the taxpayer as subject to the tax (unless the taxpayer shall have claimed that the applicable rate of tax is lower than the rate of tax applied by the commissioner); in such case the tax shall be due and payable on the tenth day after the date the statement was mailed. **Provided,** further, that in a case of disallowance of an exemption for which application was made under section 5459 the commissioner, before making an assessment, may require such applicant, by demand made upon him by mail or delivery thereof to the address shown in the application, to file information returns as to his gross income or gross proceeds of sales, within such reasonable time as the commissioner may allow, and in the event of failure, neglect or refusal to comply with such demand, the commissioner shall make an assessment under section 5469, in lieu of this section. [L. 1935, c. 141, s. 7 (1); am. L. 1941, c. 265, s. 5; R. L. 1945, s. 5467; am. L. 1945, c. 253, s. 9; am. L. 1947, c. 111, s.10.]

§ 5472. AM. L. 1945, c. 253 (A-104), s. 10, p. 193: ('45, Tax Code, p. 80.)

§ 5473. AM. L. 1945, c. 92 (A-99), s. 4, p. 179: ('45, Tax Code, p. 81.)

§ 5474. AM. L. 1945, c. 220 (A-98), s. 2, p. 177: ('45, Tax Code, p. 81.)

Chapter 102: Income Tax

Sec. 5502. Tax on corporations; exceptions. There shall be assessed, levied, collected and paid for each taxable year a tax of ten per centum upon the net income of every corporation doing business in or receiving or deriving income from courses within the Territory, or income included in gross income by sections 5505-5507; **provided,** however, that all banks and insurance companies exclusively taxable under the provisions of other laws, and also all corporations, companies, associations or trusts conducted solely for charitable, religious, educational or scientific purposes, including fraternal beneficiary societies, and including all corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private shareholder or individual, shall not be taxable under this chapter. [L. 1932, 2d, c. 44, s. 1; R. L. 1935, s. 2031; am. L. 1939, c. 213, s. 5; R. L. 1945, s. 5502; am. L. 1945, c. 124, s. 1; am. L. 1947, c. 111, s. 13.]

Sec. 5503. Tax on individuals. There shall be assessed, levied, collected and paid for each taxable year upon the net income of every individual doing business in or receiving or deriving income from sources within the Territory, or income included in gross income by sections 5505-5507, a tax equal to the sum of the following:

Three per centum of the amount of net income not in excess of five thousand dollars;

Three and one-half per centum of the amount of net income in excess of five thousand dollars but not in excess of ten thousand dollars;

Four per centum of the amount of net income in excess of ten thousand dollars but not in excess of twenty thousand dollars;

Four and one-half per centum of the amount of net income in excess of twenty thousand dollars but not in excess of forty thousand dollars;

Five per centum of the amount of net income in excess of forty thousand dollars but not in excess of seventy thousand dollars;

Five and one-half per centum of the amount of net income in excess of seventy thousand dollars but not in excess of one hundred thousand dollars; and

Six per centum of the amount of net income in excess of one hundred thousand dollars. [R. L. 1945, s. 5503; am. L. 1947, c. 111, s. 13 (b).]

Sec. 5508. Gross income; deductions from. In computing net income there shall be allowed as deductions:

(a) **Bad debts.** Debts ascertained to be worthless and charged off on the books of the taxpayer within the taxable year (or in the discretion of the commissioner a reasonable addition to a reserve for bad debts); **provided** that when satisfied that a debt is recoverable only in part, the commissioner may allow such debt to be charged off in part;

(b) **Charitable and other contributions.** Contributions or gifts made within the taxable year by an individual or corporation to or for the use of the United States, the Territory, or any political subdivision thereof for exclusively public purposes, or to any corporation, company, association or trust,

community chest fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual and where no part of any contribution so received in the Territory is to be expended elsewhere than in the Territory, but in no event shall the amount of the deduction for such contributions exceed fifteen per centum of the net income of such individual or corporation as computed without the benefit of this paragraph; **provided,** however, that the requirement that the contribution be for expenditure within the Territory, shall not apply to any contributions for war relief where the corporation, company, association or trust, community chest fund or foundation is created or organized in the United States or in any possession thereof or under the laws of the United States or of any state or territory or possession thereof;

(c) **Depreciation.** A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business or producing income which is included in gross income, including a reasonable allowance for obsolescence;

(d) **Employees' pension fund, etc.** Amounts transferred or paid into an employees' pension or benefit fund or trust (hereinafter called "the plan") by any individual or corporation to provide for the payment of reasonable pensions or benefits to his or its employees, not exceeding, however, the greater of the following amounts: (1) five per centum of the net income for the taxable year in the trade or business of such employer; or (2) seven and one-half per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the plan. **Provided,** that in the application of the foregoing limitations there shall not be counted any amounts transferred or paid into the fund or trust in order to fund past service credits, for services performed prior to the taxable year. The amount required to fund such past service credits shall be deductible in ten annual installments, commencing with the first taxable year in which such deduction is allowable;

(e) **Expenses.** All actual operating and business expenses paid or incurred or accrued during the taxable year in carrying on any trade or business including reasonable amounts for salaries or other compensation for personal service or attributable to personal services actually rendered, traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business and rentals or other payments required to be made as a condition to the continued use or possession for the purpose of the trade or business, of property to which the individual or corporation has not taken or is not taking title, or in which the individual or corporation has no equity; in the case of an individual, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income; **provided,** however, that only so much of such expenses may be deducted as are properly allocable to income taxable under this chapter;

(f) **Interest.** All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry bonds of a state, territory or political subdivision thereof, or of the United States or its possessions, the interest upon which is wholly exempt from taxation under this chapter;

(g) **Losses.** Losses sustained during the taxable year if incurred in the trade or business or in any transaction entered into for profit though not connected with such trade or business, except that capital losses of an individual or corporation resulting from the purchase, sale, exchange or other acquisition or disposition of real property, stocks, bonds, notes or other like securities shall not be allowed as deductions; **provided,** however, that any individual or corporation, who or which is engaged in the business of the purchase, sale, exchange or other acquisition or disposition of real property, stocks, bonds, notes or other like securities shall include as a deduction all losses sustained from the purchase, sale, exchange or other acquisition or disposition of all such property as was acquired, used or disposed of in connection with such business; but capital losses of any individual or corporation who or which is engaged in such business resulting from the purchase, sale, exchange or other acquisition or disposition of real property, stocks, bonds, notes or other like securities acquired by such individual or corporation only for investment and held only for investment and which property was not acquired in connection with or used in the conduct of such business in any way, shall not be allowed as deductions;

(h) **Losses of property whether or not connected with a trade or business.** Losses arising from fires, storms, shipwrecks or other casualty or from theft, but only to the extent of the amount not compensated for by insurance or otherwise.

Any person who suffered a loss of property as a result of the tidal waves on April 1, 1946, may deduct one-fifth (1/5) of the amount of such loss each year for a period of five years, the first such year to be the calendar year of 1946, or the fiscal year of the taxpayer in which April 1, 1946, is included. Any person entitled to such deduction who has filed a return as provided in section 5519 taking the full amount of such loss as a deduction from his income for the calendar year 1946, or in the case of taxpayers on a fiscal year, for any fiscal year which included April 1, 1946, may file an amended return on or before March 20, 1948 (amended returns by taxpayers on a fiscal year shall be filed on or before the 20th day of the third month following the close of the fiscal year next following December 31, 1947), deducting one-fifth (1/5) of the amount of the loss sustained as aforesaid from his income for the taxable year in which April 1, 1946, is included.

(i) **Net loss.** If, for any taxable year, it appears upon the production of evidence satisfactory to the commissioner that any taxpayer has sustained a net loss in any trade or business, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding taxable year; the deduction in all cases to be made under regulations prescribed by the commissioner;

(j) **Taxes, etc.** All taxes, license fees, and other governmental impositions levied or assessed by the Territory or any political subdivision thereof or by the United States and paid or accrued by the taxpayer (whether or not such taxpayer be owner, tenant, occupant or mortgagor, or otherwise liable for the same) within the taxable year, except taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this paragraph shall not exclude the allowance as a deduction of so much of such improvement taxes as is properly allocable to maintenance or interest charges; **provided,** however, that federal income taxes upon income received or derived from sources without the Territory shall not be deducted.

(k) **Amortization of emergency facilities.** (1) Subject to the provisions hereinbelow set forth, every taxpayer who is entitled, under section 124 (a) of the Internal Revenue Code, to take the amortization deduction provided for in said section 124 (a), with respect to any emergency facility, and which elects, under section 124 (b) of the Internal Revenue Code, to take such amortization deduction with respect to the emergency facility, shall, with respect to the emergency facility, take amortization deductions under this paragraph (k). The amortization deductions under this paragraph (k), with respect to such emergency facility, shall, except as otherwise expressly provided in this paragraph (k), be in lieu of any deductions with respect to such emergency facility or any part thereof under paragraph (c) above.

(2) Amortization deductions with respect to any emergency facility taken under this paragraph (k) shall be spread over a period of sixty months. Such deductions shall be at the rate of 1 2/3% per month, or 20% per annum. The sixty-month period shall begin as to any emergency facility with the month following the month in which the facility was completed or acquired, or with the succeeding taxable year, in accordance with the election of the taxpayer under section 124 (b) of the Internal Revenue Code. In case the sixty-month period with respect to any emergency facility shall commence with the succeeding taxable year as aforesaid, any applicable deductions under paragraph (c) above shall be taken to the commencement of said succeeding taxable year and the amount subject to amortization deductions under said paragraph (c) shall be the cost of such emergency facilities diminished by such deductions under said paragraph (c).

(3) Any taxpayer who has commenced to take amortization deductions, with respect to any emergency facility, under this paragraph (k), may at any time, prior to the termination of the period of sixty months, discontinue taking such amortization deductions. Such discontinuance shall be effective as of the beginning of any month specified by the taxpayer in the taxpayer's return for the taxable year in which such month is included. After the effective date of such discontinuance the taxpayer shall not be entitled to any further amortization deductions under this paragraph (k) with respect to the emergency facility. Commencing with the effective date of such discontinuance, deductions provided for in paragraph (c) above shall be allowed with respect to such portions or all of the emergency facility which constitute depreciable property under said paragraph (c), such deductions to be

based on such portion or all of the remaining unamortized cost of the emergency facility which is applicable to such depreciable property. Such discontinuance shall be at the election of the taxpayer and the election to discontinue or not to discontinue such amortization deductions may be made without regard to whether or not the taxpayer has discontinued similar deductions pursuant to section 124 (c) of the Internal Revenue Code and irrespective of any adjustments under section 124 (d) of the Internal Revenue Code.

(4) As used in this paragraph (k) the term "emergency facility" means any facility, land, building, machinery, or equipment, or any part thereof, which constitutes an emergency facility as defined in section 124 (e) of the Internal Revenue Code, with respect to which a certificate has been made under section 124 (f) of the Internal Revenue Code, and the term "emergency period" means the emergency period as defined in section 124 (e) of the Internal Revenue Code. The amortization deductions provided for in this paragraph (k) shall be taken, with respect to any emergency facility, only on the basis of such construction, reconstruction, erection, installation or acquisition after June 10, 1940, as shall have been certified under section 124 (f) of the Internal Revenue Code as necessary in the interest of national defense during the emergency period; and the deductions provided for in paragraph (c) above shall be allowed with respect to such portion of the construction, reconstruction, erection, installation or acquisition of the emergency facility as shall not have been so certified.

(5) As used in this paragraph, each of sections 124 (a), 124 (b), 124 (c), 124 (d), 124 (e), and 124 (f) of the Internal Revenue Code, means the provisions thereof in effect from time to time.

(l) **Building and loan associations.** In computing the taxable income of building and loan associations which are subject to chapter 153, in addition to the deductions from gross income provided above, there shall also be deducted (1) all assets and depreciation which the bank examiner may have required to be charged off in the taxable year; and (2) the return paid or credited on or apportioned to the withdrawable shares and investment certificates, but in no event exceeding six per centum per annum. [R. L. 1945, s. 5508; am. L. 1947, c. 150, s. 1 and c. 132, s. 1.]

Sec. 5509. Exemptions. In computing net income of individuals the following exemptions shall be deducted:

(a) If single, or if married and not living with husband or wife, an exemption of one thousand dollars;

(b) If married and living with husband and wife, or the head of a family with dependents, an exemption of two thousand dollars; and for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if under eighteen years of age, incapable of self-support, or if under twenty-one years of age and attending a recognized educational institution, an exemption of two hundred dollars; but in no event shall this larger exemption or the exemption for the same dependent be deducted by both husband and wife;

(c) A person whose sight is impaired to the extent of seventy-five per cent or more, shall be entitled to deduct an exemption of five thousand dollars, in lieu of the exemptions provided by paragraphs (a) and (b) of this section. The impairment of sight shall be certified to by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose.

(d) An estate or trust shall be entitled to deduct an exemption of one thousand dollars;

(e) A non-resident shall only be entitled to deduct such proportion of the exemption as is allowable to one of his status as a single person, or a married person, or a person having dependents, as the case may be, as his gross income received or derived in the Territory as defined in this chapter bears to his entire gross income wherever received or from whatever source derived;

(f) The exemption of two thousand dollars to married persons and the exemption of two hundred dollars for each dependent shall be allowed only to such persons as shall make and file a return to and with the collector in conformity with the requirements of this chapter setting forth the fact that such person is married, the head of a family or has dependents, giving the number and nature of such dependents for each such exemption as claimed, and in the case of a non-resident showing his gross income wherever received or from whatever source derived so that his deduction may be apportioned as is provided in paragraph (e) above.

(g) If the status of the taxpayer, insofar as it affects the personal exemption or exemptions of the taxpayer, changes during the taxable year, such personal exemption or exemptions shall be apportioned, under rules and regulations prescribed by the tax commissioner, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month. [L. 1932, 2d, c. 44, pt. of s. 5; R. L. 1935, pt. of s. 2034; am. L. 1939, c. 213, s. 8; am. L. 1941, c. 119, s. 1; R. L. 1945, s. 5509; am. L. 1947, c. 213, s. 6.]

§ 5535. **AM.** L. 1945, c. 92 (A-99), s. 5, p. 180: ('45, Tax Code, p. 101.)

Chapter 103: Inheritance and Estate Tax

§ 5553. **AM.** L. 1945, c. 262 (A-107), s. 1 (1); ('45, Tax Code, p. 103.)

§ 5555. Am. L. 1945, c. 262, s. 1 (2): ('45, Tax Code, p. 105.)

§ 5556. Am. L. 1945, c. 262, s. 1 (3): ('45, Tax Code, p. 105.)

§ 5561. Am. L. **1947,** c. 175 (A-90), s. 1, by amending the last sentence of the first paragraph to read:

"For the purposes of this section the District of Columbia and Puerto Rico shall be considered territories of the United States."

§ 5562. **AM.** L. 1945, c. 262 (A-107), s. 1 (4): ('45, Tax Code, p. 106.)

§ 5563. **AM.** L. 1945, c. 262, s. 1 (4): ('45, Tax Code, p. 107.)

§ 5567. **AM.** L. 1945, c. 262, s. 1 (5): ('45, Tax Code, p. 108.)

§ 5568. Am. L. 1945, c. 262, s. 1 (6): ('45, Tax Code, p. 108.)

§ 5573. **AM.** L. 1945, c. 262, s. 1 (7): ('45, Tax Code, p. 109-10.)

§ 5574. Am. L. 1945, c. 37 (A-108) s. 1: ('45, Tax Code, p. 110.)

Chapter 104: Liquor Tax

Sec. 5601. Definitions. Wherever used in this chapter, unless the context otherwise requires:

"Commissioner" means the tax commissioner of the Territory.

"Liquor commission" means the liquor commission of each county.

"Liquor law" means chapter 137.

"Beer," "liquor," "person," "licensed premises," and **"wine"** shall have the same meanings as said words have as used in the liquor law.

"Dealer" means the holder of a manufacturer's license, or a wholesaler's license, under the liquor law.

"Dispenser" means the holder of a dispenser's license, **"club"** means the holder of a club license, and **"vessel owner"** means the holder of a vessel license, under the liquor law.

"Permittee" means the holder of a permit provided for in section 5602.

"Purchaser" means the holder of a retail dealer's license under the liquor law, or a dispenser, club or vessel owner, or a person who purchases liquor for consumption and not for resale, but shall not include (a) a person who purchases liquor from the holder of a retail dealer's license under the liquor law, if such seller is not also a dealer as hereinabove defined; or (b) a person who purchases liquor for sacramental purposes.

"Retail price" means the ordinary, customary or usual price (exclusive of any amount charged or collected pursuant to section 5605 on account or by way of reimbursement of the tax imposed by this chapter) which a consumer would pay a retail dealer (as defined by said liquor law) for the articles in respect of which the tax is imposed under this chapter; **provided,** that the word **"consumer,"** as used in this paragraph, shall not include a dispenser, club or vessel owner.

"Sale" means any transfer of title or possession, or both, exchange or barter, in any manner or by any means whatsoever, for a consideration, but shall not include the sale of liquor for sacramental purposes or the sale of liquor by one dealer to another dealer for resale.

Number and gender. The singular shall include the plural and the masculine shall include the feminine and the neuter. [L. 1939, c. 222, s. 2; R. L. 5601; am. L. 1947, c. 111, s. 14.]

§ **5604.** Am. L. 1947, c. 111 (A-81), s. 14 (b), by amending rate of tax in 3rd line from "six" to "eight per cent."

Sec. 5607. Return, form, contents. Every taxpayer shall, on or before the twentieth day of each month, file with the assessor of the taxation division in which his business premises are located, or with the commissioner in Honolulu, a return showing all sales of liquor made by him during the preceding month, showing separately the amount of the non-taxable sales, and the amount of the taxable sales, and the tax payable thereon. The form of return shall be prescribed by the commissioner and shall contain such information as he may deem necessary for the proper administration of this chapter. [L. 1939, c. 222, s. 8; R. L. 1945, s. 5607; am. L. 1947, c. 111, pt. of s. 14.]

§ 5613. AM. L. 1945, c. 92 (A-99), s. 6, p. 180: ('45, Tax Code, p. 119.)

Chapter 105: Personal Property Tax: Repealed

*§ 5631-5647. Repealed, L. 1947, c. 111 (A-81), s. 7, as of Jan. 1, 1948.]

Chapter 106: Public Utilities Tax

§ 5672. AM. L. 1945, c. 78 (A-110), s. 1, p. 203: ('45, Tax Code, p. 127.)

Chapter 108: Specific Taxes

Sec. 5710. Character of number plates; purchase. The number plates hereinabove referred to and as hereinafter described shall be uniform throughout the Territory and shall be used on all vehicles upon which a tax is paid pursuant to this subtitle. All such number plates shall bear the word "Hawaii," shall be of different color or shade each year with a distinct contrast between the color of the plates and the numerals and letters thereon, and shall be of such size, shape and color, and with such arrangement of letters and numerals as may, subject to the provisions of this subtitle, be determined by the secretary of the Territory. The numerals on all such number plates shall be not less than four inches in height and the strokes thereof not less than one-half inch in width, except in the case of motorcycles, in which case such numerals shall be not less than one inch in height and the strokes thereof not less than one-eighth inch in width. The letters and numerals to be used in each county shall be assigned by the secretary. On or before October 1 the treasurer of each county shall certify to the secretary the number of plates required for use therein. The secretary shall contract on behalf of all of said counties for the purchase of the required plates. The board of supervisors of each county shall appropriate and cause to be paid over to the party with whom the secretary shall contract, or to the secretary as he may direct, such sum or sums as the secretary shall determine to be the county's proportionate expense of such contract and the charges connected therewith. Such contract shall be made by the secretary as the agent of the several counties, and the proportionate liability of each county shall be stated in the contract. Notwithstanding any other provision of law, such contract shall constitute a valid obligation of each county for its proportionate share. [R. L. 1945, s. 5710; am. L. 1947, c. 33, s. 1.]

§ 5713. AM. L. 1945, c. 83 (A-111), s. 1, p. 204: ('45, Tax Code, p. 133.)

Chapter 109: Tobacco Tax

§ 5753. AM. L. 1945, c. 115 (A-112), s. 1, p. 206: ('45, Tax Code, p. 133-4.)

§ 5760. AM. L. 1945, c. 92 (A-99), s. 7, p. 181: ('45, Tax Code, p. 135.)

CUMULATIVE INDEX

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1947 references are in this type, followed by pages.

1945 references are in this type, no pages.

§ = section R.L. 1945 — c. = Act of S.L.
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